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Financial reports and audited financial statements, and reports of the Board of Auditors

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly a letter dated 29 June 2007 from the Chairman of the Board of Auditors transmitting the report of the Board on the implementation of its recommendations relating to the biennium 2004-2005, submitted in accordance with Assembly resolution 52/212 B and paragraph 9 of Assembly resolution 58/249 A (see annex).

* A/62/50.

07-42027 (E) 070807

Annex

Letter of transmittal

29 June 2007

I have the honour to transmit to you the report of the Board of Auditors on the implementation of its recommendations relating to the biennium 2004-2005, in accordance with paragraph 5 of General Assembly resolution 52/212 B of 31 March 1998.

(*Signed*) Philippe **Séguin**
First President of the Court of Accounts of France
and Chairman, United Nations Board of Auditors

The President of the General Assembly
of the United Nations
New York

Report of the Board of Auditors on the implementation of its recommendations relating to the biennium 2004-2005 as at 31 March 2007

Summary

Mandate

The present report, up-to-date as at 31 March 2007, relates to recommendations made by the Board of Auditors in its reports for the biennium 2004-2005 and approved by the General Assembly in paragraph 2 of its resolution 61/233. It reflects the status of recommendations which (a) have been implemented; (b) are under implementation; (c) have not been implemented; or (d) have been overtaken by events.

Scope and methodology

The present report covers 14 organizations on which the Board reports on a biennial basis to the General Assembly. Those activities on which reports of the Board are submitted annually, or are not submitted to the Assembly, are not included. No recommendations were issued in respect of the United Nations Office for Project Services for the biennium 2004-2005 as the submission of its financial statements was delayed and, accordingly, the audit was postponed. Therefore, the present report does not include any statistics on the Office.

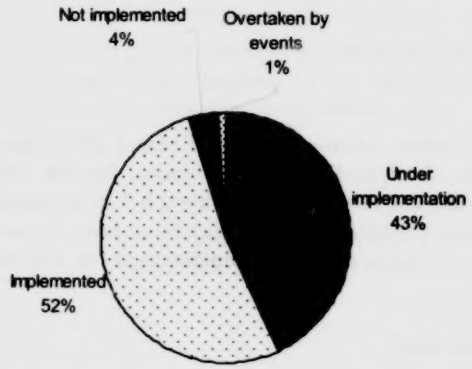
The Board has validated the statistics supplied by the Administrations on the status of implementation of its recommendations in all the cases where such validation was possible based on the Board's audit plans and proved cost-effective. In other cases, the Board has not yet validated the data, which would be validated within the current audit cycle.

Overall observations

The number of recommendations made by the Board increased by 28 per cent over the last biennium. Despite the increase in number, the rate of implementation of the Board's recommendations as at 31 March 2007 has improved compared to the rate as at 31 May 2005.

Graph

Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005 as at 31 March 2007



The reasons for the lack of full implementation of the recommendations varied depending on the organization. However, the Board identified some common elements, as follows:

- The lack of a dedicated follow-up mechanism to focus the attention of senior management on the steps necessary to ensure full implementation of the Board's recommendations, as approved by the General Assembly
- The lack of sufficient inter-agency coordination in the implementation of recommendations that pertained to more than one organization
- The undertaking of medium-term projects in the areas of inter-agency coordination, information and communications technology, human resources management, procurement and treasury management.

The Board has also identified good practices in relation to the implementation and follow-up of its recommendations, which include:

- The identification and monitoring of a list of top priority audit issues (when it did not result in a lack of attention to the Board's other recommendations)
- The validation of management's assessment of the status of implementation of the Board's recommendations by internal auditors
- The identification of causes of recurring audit observations and the development of appropriate action plans to address them.

The Board's mandate, scope and methodology for the present report are set out in the introduction. The Board's overall observations are contained in part II. The status of implementation of the Board's recommendations is detailed by entity in part III.

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I. Introduction

Mandate

1. In its resolution 52/212 B, the General Assembly emphasized that primary managerial responsibility and accountability for the implementation of the recommendations of the Board of Auditors should remain with department heads and programme managers. In the same resolution, the Assembly endorsed the proposals of the Board (see A/52/753) for improving the implementation of the recommendations approved by the Assembly, subject to the provision contained in the resolution. The Administration has taken steps to address the following:

(a) Need to specify timetables for the implementation of recommendations;

(b) Disclosure of the office holders to be held accountable;

(c) Establishment of an effective mechanism to strengthen oversight in regard to the implementation of audit recommendations. Such a mechanism could be in the form of a special committee comprising senior officials or of a focal point for audit and oversight matters.

2. The present report, up-to-date as at 31 March 2007, relates to recommendations made by the Board in its reports for the biennium 2004-2005. It reflects the status of recommendations which (a) have been implemented; (b) are under implementation; (c) have not been implemented; or (d) have been overtaken by events.

Scope and methodology

3. The present report covers 14 organizations on which the Board reports on a biennial basis. Those activities on which reports of the Board are submitted annually (i.e., United Nations peacekeeping operations, the capital master plan and the Office of the United Nations High Commissioner for Refugees) are not included in the present report but are covered, as before, in an annex to the respective reports of the Board to the General Assembly. Similarly, reports that are not submitted to the Assembly (United Nations escrow (Iraq) accounts, the United Nations Compensation Commission, the United Nations Framework Convention on Climate Change, the United Nations Convention to Combat Desertification) are not included in the present report.

4. At the time of preparing the present report, the audit of the United Nations Office for Project Services (UNOPS) for the biennium 2004-2005 had not been completed, as the submission of financial statements by UNOPS in respect of that biennium was delayed and the previous scheduled audit of UNOPS by the Board had to be suspended. As a result, the status of implementation of recommendations issued in respect of the biennium 2004-2005 could not be included in the report. The audit of UNOPS was completed on 29 June 2007.

5. The Board requested that the 14 organizations covered in the present report provide it with the status of implementation as at 31 March 2007 of the recommendations contained in its reports on the 2004-2005 accounts. Whenever audit teams were already present at headquarters between 31 March 2007 and 31 May 2007 for planning missions or substantive audits, they validated that data. In most other cases, the Board determined that it would not be cost-effective to

dedicate specific teams to the review and validation of the data provided. The review would then be undertaken in time for inclusion in the relevant reports to the General Assembly on the 2006-2007 financial statements. In the case of the United Nations, dedicated teams were sent to the New York and Geneva headquarters given the high number of recommendations involved (176).

6. The validation process consisted of a desk review and requests for supporting documents to back up the assessments provided by the Administrations. The Board's work did not involve site visits of field operations. Whenever the evidence provided did not support management's assessment, the Board reflected its own assessment in the validated data contained in the present report. In cases where no teams were scheduled to conduct the review, or where further audit procedures were needed to reach satisfactory conclusions, the data is shown as not validated. Table 1 below reflects the status of the validation process for each entity. In all cases, the status of implementation of some recommendations could not be determined until substantial procedures were performed on the 2006-2007 financial statements.

Table 1
Scope of the validation by the Board of Auditors of the status of implementation of the recommendations contained in its reports on the biennium 2004-2005

Organization	*Number of recommendations in the report, 2004-2005*	*Status*
United Nations	176	Validated
International Trade Centre UNCTAD/WTO	13	Validated
United Nations University	15	Validated
United Nations Development Programme	115	Validated
United Nations Children's Fund	96	Validated
United Nations Relief and Works Agency for Palestine Refugees in the Near East	34	Validated
United Nations Institute for Training and Research	21	Validated
United Nations Environment Programme	26	Not validated
United Nations Population Fund	42	Not validated
United Nations Human Settlements Programme	18	Not validated
United Nations Office on Drugs and Crime	30	Validated
International Criminal Tribunal for Rwanda	33	Validated
International Tribunal for the Former Yugoslavia	11	Validated
United Nations Joint Staff Pension Fund	21	Validated

7. Some Administrations provided the Board with updated statistics on the status of implementation of the Board's recommendations. They were excluded from the present report in view of the lack of opportunity for validation of those updates and the need for timely reporting and consistency.

II. Status of implementation of the recommendations of the Board of Auditors: overall observations

8. The number of recommendations made by the Board has more than tripled over the past four bienniums, and increased by 28 per cent over the last biennium, as shown in table 2. The number of recommendations issued is influenced both by management and audit-related issues. Audit-related issues varied over time. Therefore, that series of statistics is not directly indicative of the quality of the management of the organizations audited.

Table 2
Number of recommendations issued by the Board of Auditors for the bienniums 1999-2000 to 2004-2005

	Number of recommendations				*Percentage increase (2002-2003 to 2004-2005)*
	1999-2000	*2000-2001*	*2002-2003*	*2004-2005*	
Total	**208**	**335**	**509**	**651**[a]	**28**

[a] The 2004-2005 figures exclude the recommendations made in relation to UNOPS, which were included in data for previous bienniums.

9. Despite the increase in the number of recommendations, the rate of implementation of the Board's recommendations as at 31 March 2007 had improved compared to the situation as at 31 May 2005. The status of implementation of the Board's recommendations by individual organization is set out in table 3 and graph 1.

Table 3
Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005 as at 31 March 2007

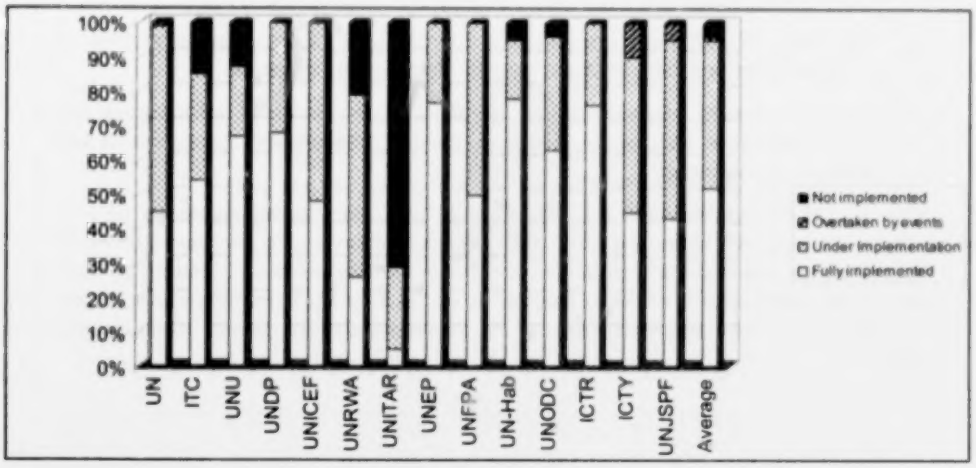
		Implemented		*Under implementation*		*Overtaken by events*		*Not implemented*	
Organization	*Number of recommendations in a report, 2004-2005*	*Number*	*Percentage*	*Number*	*Percentage*	*Number*	*Percentage*	*Number*	*Percentage*
United Nations	176	79	45	95	54	2	1	—	—
International Trade Centre UNCTAD/WTO	13	6	46	5	39	—	—	2	15
United Nations University	15	10	67	3	20	—	—	2	13
United Nations Development Programme	115	78	68	37	32	—	—	—	—
United Nations Children's Fund	96	46	48	50	52	—	—	—	—
United Nations Relief and Works Agency for Palestine Refugees in the Near East	34	9	26	17	50	1	3	7	21

Organization	Number of recommendations in a report, 2004-2005	Implemented		Under implementation		Overtaken by events		Not implemented	
		Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
United Nations Institute for Training and Research	21	1	5	5	24	—	—	15	71
United Nations Environment Programme	26	20	77	6	23	—	—	—	—
United Nations Population Fund	42	21	50	21	50	—	—	—	—
United Nations Human Settlements Programme	18	14	78	3	17	—	—	1	5
United Nations Office on Drugs and Crime	30	19	63	10	33	—	—	1	4
International Criminal Tribunal for Rwanda	33	25	76	8	24	—	—	—	—
International Tribunal for the Former Yugoslavia	11	5	45	5	45	1	10	—	—
United Nations Joint Staff Pension Fund	21	9	43	11	52	1	5	—	—
Total	**651**	**342**	**52**	**276**	**43**	**5**	**1**	**28**	**4**
2002-2003 (percentage)[a]	509	235	46	230	45	—	—	44	9

[a] This line shows the status of implementation of the recommendations contained in the Board's reports on the biennium 2002-2003 as at 31 May 2005 (as per A/60/113). It provides an indication of the relative pace of implementation of two different sets of the Board's recommendations, over two successive bienniums.

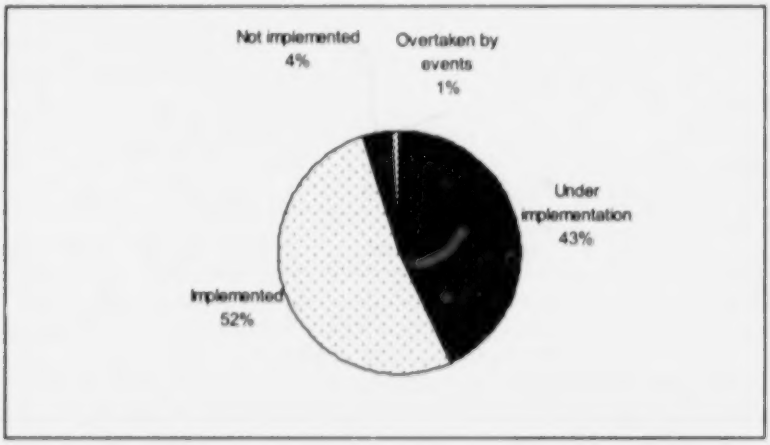
Graph 1

Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005 by entity as at 31 March 2007



10. In paragraph 2 of its resolution 61/233, the General Assembly approved all the recommendations contained in the Board's reports on the 2004-2005 accounts, which are reflected in table 3 above. However, the Board notes that 4 per cent of those recommendations had not been implemented as at 31 March 2007, as indicated in graph 2.

Graph 2
Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005 as at 31 March 2007



11. The reasons for the lack of full implementation of the recommendations varied depending on the organization. However, the Board identified some common elements:

- The lack of a dedicated follow-up mechanism to focus the attention of senior management on the steps necessary to ensure full implementation of the Board's recommendations, as approved by the General Assembly
- The lack of sufficient inter-agency coordination in the implementation of recommendations that pertained to more than one organization
- The undertaking of medium-term projects in the areas of information and communications technology, human resources management, procurement and treasury management.

12. The Board understands that the relevant projects (human resources reform, treasury information technology and management improvements, implementation of the coherence panel recommendations and the enterprise resource planning project) would take some time to come to fruition. It would keep those matters under review to ensure that the implementation of its recommendations is not unreasonably delayed.

13. The Board has also identified good practices in relation to the implementation and follow-up of its recommendations, which include:

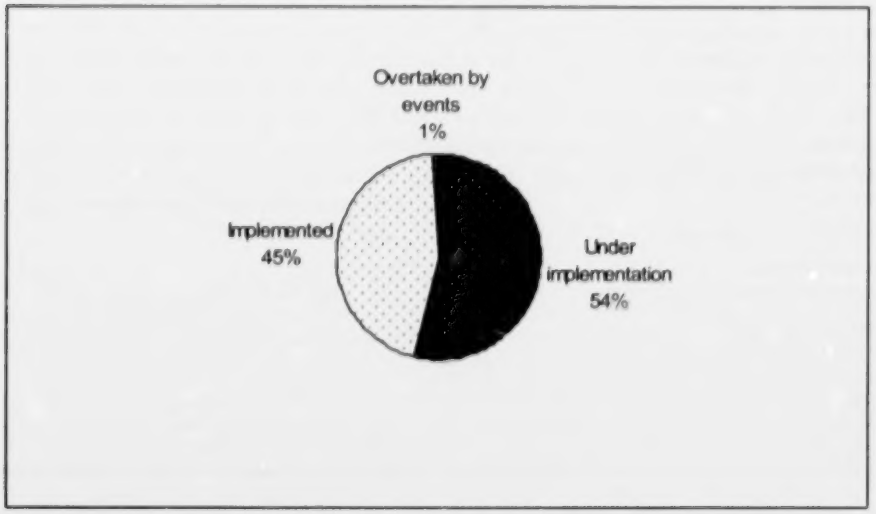
- The identification and monitoring of a list of top priority audit issues (provided it does not result in a lack of attention to other binding recommendations)
- The validation of management's assessment of the status of implementation of the Board's recommendations by internal auditors
- The identification of causes of recurring audit observations and the development of appropriate action plans to address them.

III. Status of implementation of the recommendations of the Board of Auditors detailed by entity

A. United Nations

14. Of the 176 recommendations made by the Board with respect to the accounts of the United Nations for the biennium 2004-2005,[1] the United Nations had implemented 79 (45 per cent), while 95 (54 per cent) were under implementation and 2 (1 per cent) had been overtaken by events, as shown in graph 3. The status of implementation of the Board's recommendations presented below was validated by the Board, as explained in the scope and methodology section of the introduction to the present report.

Graph 3
Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, United Nations



[1] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 5* (A/61/5), vol. I, chap. II.

15. Four areas showed evidence of a relatively low implementation rate: human resources management; treasury and investment management; inter-agency services; and information and communications technology, as shown in table 4.

Table 4
Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, by thrust areas

Topics	*Number of recommendations*	*Implemented*		*Under implementation*		*Not implemented*		*Overtaken by events*	
		Number	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
Financial issues	35	22	63	13	37	—	—	—	—
United Nations Fund for International Partnerships	4	1	25	3	75	—	—	—	—
Information and communications technology	10	3	30	7	70	—	—	—	—
Programme management and results-based budgeting	23	13	57	10	43	—	—	—	—
Treasury and investment management	13	3	23	10	77	—	—	—	—
Revenue-producing activities	8	3	38	5	63	—	—	—	—
Procurement and contract management	16	8	50	8	50	—	—	—	—
Inter-agency services	7	2	29	5	71	—	—	—	—
Human resources management	12	1	8	10	83	—	—	1	8
Response of the Office for the Coordination of Humanitarian Affairs to the tsunami	23	11	48	12	52	—	—	—	—
Legal affairs (Office of Legal Affairs, International Court of Justice)	7	5	71	2	29	—	—	—	—
Special political missions	9	7	78	1	11	—	—	1	11
Research/training institutes and agencies	3	—	—	3	100	—	—	—	—
Other (International Civil Service Commission, United Nations Conference on Trade and Development)	6	—	—	6	100	—	—	—	—
Total	**176**	**79**	**45**	**95**	**59**	**—**	**—**	**2**	**1**

16. Most observations in the four areas highlighted above would be influenced by the ongoing reforms in the Secretariat. Information technology and treasury management are of particular concern, as those areas make up half of the 27

recommendations from the Board's report on the biennium 2002-2003 that were still under implementation as at 31 March 2007.

17. The Administration indicated that the recommendation contained in paragraph 778 of the Board's report,[2] to ensure that a formal contract amendment is prepared for review by the local committee on contracts, in relation to security works performed in a special political mission, was overtaken by events. Those works were not compliant with original contract terms owing, inter alia, to an increase in contract price of more than 20 per cent and to changes to the terms of payment and date of completion of the works. As the Administration had not acted in a timely fashion, the works were completed before such an amendment could be negotiated with the contractor. The Board noted that the submission of a formal contract amendment would have ensured that the local committee on contracts was aware of the non-compliance of the works with legislative authority.

18. The Administration stated that primary responsibility for implementing recommendations lay with the programme managers to whom the recommendations were addressed. The Department of Management ensured that the responsibility for implementation of each recommendation would be assigned to a programme manager and that time frames would be set for their implementation. The Secretary-General had entrusted the Management Committee with the overall responsibility for ensuring that programme managers were effectively implementing recommendations in a timely manner. During November and December 2006, the Management Committee reviewed the progress of 18 main recommendations of the Board on the accounts of the United Nations that were more than two years old. Of those, 10 have been verified as implemented by the Board. Quarterly benchmarks have been identified for the recommendations that remained in progress to enable regular monitoring.

B. International Trade Centre UNCTAD/WTO

19. Of the 13 recommendations made by the Board with respect to the accounts of the International Trade Centre UNCTAD/WTO (ITC) for the biennium 2004-2005,[3] ITC had implemented 7 (54 per cent), while 4 (31 per cent) were under implementation and 2 (15 per cent) were not implemented. The status of implementation of the Board's recommendations presented in graph 4 and table 5 was validated by the Board, as explained in the scope and methodology section of the introduction to the present report.

[2] Ibid.

[3] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 5* (A/61/5), vol. III, chap. II.

Graph 4
Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, International Trade Centre UNCTAD/WTO

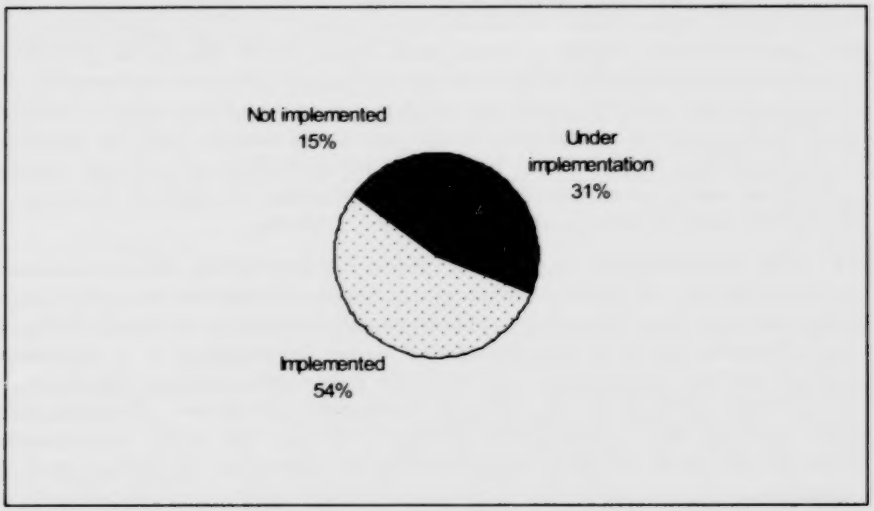


Table 5
Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, by thrust areas

Topics	*Number of recommendations*	*Implemented*		*Under implementation*		*Not implemented*		*Overtaken by events*	
		Number	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
Financial issues	2	—	—	1	50	1	50	—	—
United Nations system accounting standards	1	1	100	—	—	—	—	—	—
Consultants and experts	4	4	100	—	—	—	—	—	—
Programme management	3	1	33	2	67	—	—	—	—
Information technology fraud prevention	1	1	100	—	—	—	—	—	—
Fraud and presumptive fraud	2	—	—	1	50	1	50	—	—
Total	**13**	**7**	**54**	**4**	**31**	**2**	**15**	**—**	**—**

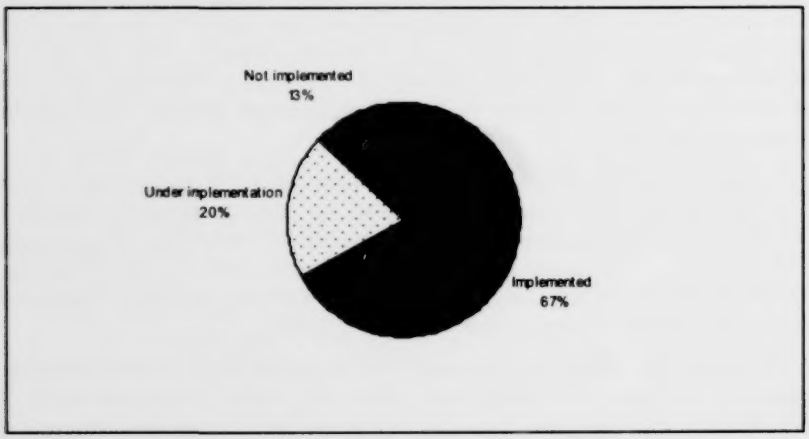
20. The implementation of some recommendations addressed to the United Nations contained in the Board's report on ITC was contingent upon adequate coordination between the United Nations and ITC. The Centre had understood that it was not in a position to reply to recommendations addressed to the United Nations and failed to indicate their status. At the request of the Board, ITC contacted the

concerned sections of the United Nations Secretariat in order to obtain an update on the status of implementation of those recommendations. However, the status of implementation of two recommendations included in the report of the ITC financial statements remained as not implemented, and in one case, no information had been received. The Board noted that even though the recommendations were addressed to the United Nations, it was the responsibility of ITC to inquire about the status of implementation of those recommendations and to report on it to the Board. As no reply had been received from the United Nations, the Board considered that that recommendation had not been implemented and encouraged the United Nations and ITC to improve their cooperation in order to implement all the recommendations included in the Board's report on ITC accounts for the biennium 2004-2005.

C. United Nations University

21. Of the 15 recommendations made by the Board of Auditors with respect to the accounts of the United Nations University (UNU) for the biennium 2004-2005,[4] UNU had implemented 10 (67 per cent), while 3 (20 per cent) were under implementation and 2 (13 per cent) had not been implemented, as shown in graph 5. The status of implementation of the Board's recommendations presented below was validated by the Board, as explained in the scope and methodology section of the introduction to the present report.

Graph 5
Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, United Nations University



22. Three areas showed evidence of a relatively low implementation rate: financial overview; presentation and disclosure of the financial statements; and programme management, as shown in table 6.

[4] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 5* (A/61/5), vol. IV, chap. II.

Table 6
Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, by thrust areas

Topics	*Number of recommendations*	*Implemented*		*Under implementation*		*Not implemented*		*Overtaken by events*	
		Number	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
Financial overview	1	—	—	1	100	—	—	—	—
United Nations system accounting standards	3	3	100	—	—	—	—	—	—
Presentation and disclosure of the financial statements	5	4	80	—	—	1	20	—	—
Programme management	4	1	25	2	50	1	25	—	—
Procurement	1	1	100	—	—	—	—	—	—
Consultants and individual contractors	1	1	100	—	—	—	—	—	—
Total	**15**	**10**	**67**	**3**	**20**	**2**	**13**	—	—

23. The Board's two recommendations that the Administration consider enhancing the Financial, Budgetary and Personnel Management System (FBPMS) to make it consistent with the financial recording and reporting requirements and that it apportion proper expenses to project costs, were not yet implemented by UNU. The Administration indicated that reprogramming FBPMS would entail costs that might not be affordable for UNU. The Administration also explained that the software used was obsolete and did not qualify for further development. The Administration estimated that FBPMS would support UNU for a maximum of three years and would eventually migrate to another system that included project and personnel management modules.

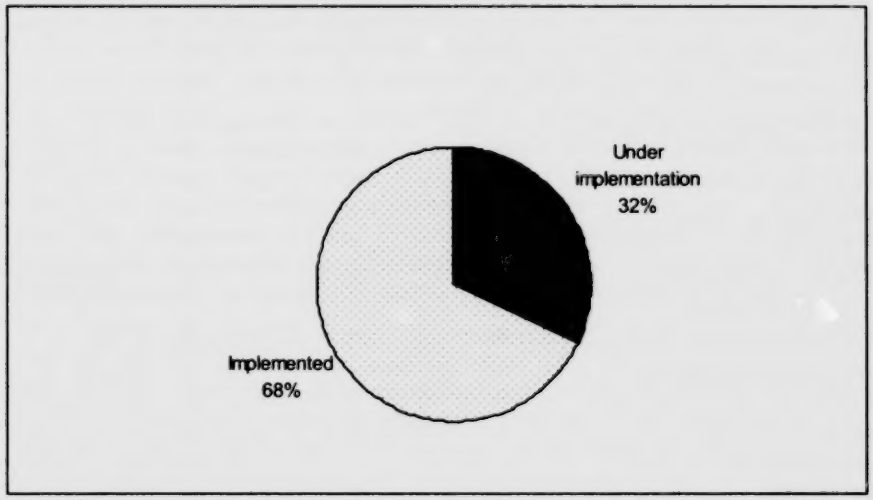
24. In response to the Board's recommendation that UNU implement a strategy that would enable it to be less dependent on the endowment fund for its sustainability, the Administration was in the process of evaluating ways to increase returns from the investments in the endowment fund and of commissioning an independent asset allocation study, in coordination with the Investment Management Service of the United Nations Joint Staff Pension Fund.

25. The Board recognizes the efforts of UNU in respect of its recommendations on programme and project management that are under implementation. The Administration expressed the view that it could only implement results-based budgeting over time as organizational units became more conversant with the approach and identified more measurable outputs.

D. United Nations Development Programme

26. Of the 115 recommendations made by the Board with respect to the accounts of the United Nations Development Programme (UNDP) for the biennium 2004-2005,[5] UNDP had implemented 78 (68 per cent), while 37 (32 per cent) were under implementation, as shown in graph 6. The status of implementation of the Board's recommendations presented below was validated by the Board, as explained in the scope and methodology section of the introduction to the present report.

Graph 6
Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, United Nations Development Programme



27. Five areas showed evidence of a relatively low implementation rate: programme expenditure; programme and project management; inter-agency coordination; procurement and contract management; and internal oversight, as shown in table 7.

[5] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 5A* (A/61/5/Add.1), chap. II.

Table 7
Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, by thrust areas

Topics	*Number of recommendations*	*Implemented*		*Under implementation*		*Not implemented*		*Overtaken by events*	
		Number	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
Bank accounts and cash	4	3	75	1	25	—	—	—	—
Inter-fund balances	5	5	100	—	—	—	—	—	—
Contributions	3	3	100	—	—	—	—	—	—
United Nations Capital Development Fund	1	1	100	—	—	—	—	—	—
Trust funds	1	1	100	—	—	—	—	—	—
End-of-service and post-retirement benefits	1	—	—	1	100	—	—	—	—
Enterprise resource planning implementation	13	11	84	2	16	—	—	—	—
Programme expenditure	8	5	63	3	27	—	—	—	—
Programme and project management	7	1	14	6	86	—	—	—	—
Inter-agency coordination	24	13	54	11	46	—	—	—	—
Indian Ocean tsunami relief efforts	10	6	60	4	40	—	—	—	—
Procurement and contract management	14	8	57	6	43	—	—	—	—
Internal oversight	6	3	50	3	50	—	—	—	—
Human resources management	5	5	100	—	—	—	—	—	—
Treasury management	7	7	100	—	—	—	—	—	—
Asset management	3	3	100	—	—	—	—	—	—
Fraud and presumptive fraud	3	3	100	—	—	—	—	—	—
Total	**115**	**78**	**68**	**37**	**32**	**—**	**—**	**—**	**—**

28. UNDP has established a timetable for the implementation of its recommendations. It advised the Board that it had met the milestones as envisaged up to March 2007. Programme expenditure implemented by Governments and non-governmental organizations was a concern in that three of the eight recommendations had not been fully implemented. Management had indicated that key measures would be implemented that included a review of the nationally executed expenditure (NEX) modality audit risk assessment framework, strengthening the oversight and monitoring function at regional bureaux on NEX projects with recurring audit qualifications and exploring policy implications of alternative project arrangement for programme countries with recurring audit concerns.

29. Six of the seven recommendations in respect of programme and project management have not been fully implemented. Management advised that that would be an area for renewed focus in UNDP as it was committed to delivering the results articulated in the strategic plan. The project risk identification was one component of the organization's enterprise risk management strategy and would be integrated into the results planning at all levels of UNDP.

30. In respect of internal oversight, only three of the six recommendations had been fully implemented to 31 March 2007. Management explained that it was making efforts to review the resources situation against the audit risk assessment and expedite the filling of vacancies in the Office of Audit and Performance Review, and performing a headquarters treasury audit during 2007.

31. UNDP indicated to the Board that its recommendation pertaining to the reconciliation of the UNOPS inter-fund account had been implemented. While UNDP and UNOPS had identified and resolved most items, some items amounting to approximately $10 million still required resolution.

32. UNDP management commented that it was on target to implement the remaining audit recommendations by the end of 2007. While many of the recommendations required action from UNDP, a number of them required close collaboration and/or harmonization with other United Nations agencies. Examples included inter-agency account reconciliations, inter-agency coordination with programme countries in the establishment of United Nations Houses and joint offices as well as the coordination of the Indian Ocean tsunami relief efforts.

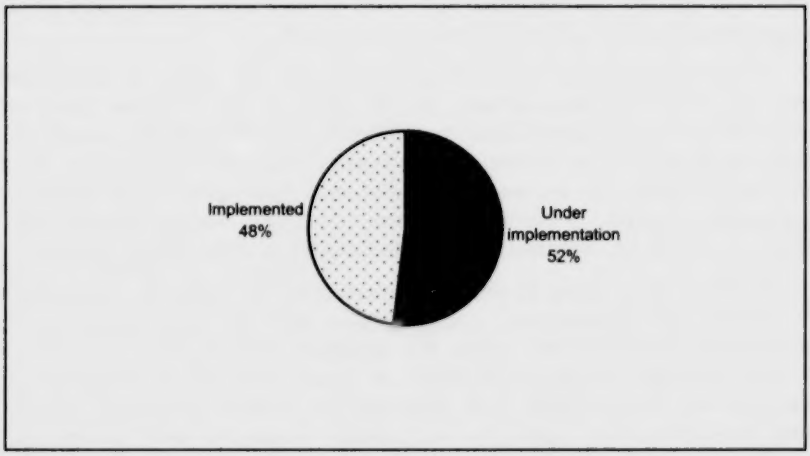
33. UNDP indicated that as part of implementing the audit recommendations of the Board, the management oversight tool and processes continued to be strengthened. They included: (a) the formalization of the regular review of the "top 15 audit priorities" to ensure management focus across the organization; (b) the continued use of the UNDP audit dashboard to promote transparent reporting of audit implementation status by responsible managers and offices; (c) the establishment of the quality assurance function in the Bureau of Management to identify underlying audit issues and emerging trends; (d) the formalization of the user guide on audit management in UNDP offices; (e) the endorsement of an accountability framework and governance mechanism for audit follow-up in UNDP; and (f) the formalization of periodic country scans to better understand the programmatic, financial, human resources challenges and audit issues at all UNDP country offices.

34. UNDP performed an analysis of the underlying causes of recurring audit issues which resulted in the planning and implementation of the following key strategic measures: (a) strengthening internal capacity through staff professionalization programmes; (b) exploring alternative support structures such as the subregional shared service centre; and (c) reviewing NEX practices with the joint NEX task force.

E. United Nations Children's Fund

35. Of the 96 recommendations made by the Board with respect to the accounts of the United Nations Children's Fund (UNICEF) for the biennium 2004-2005,[6] UNICEF had implemented 46 (48 per cent), while 50 (52 per cent) were under implementation, as shown in graph 7. The status of implementation of the Board's recommendations presented below was supplied by the Administration and validated by the Board, as explained in the scope and methodology section of the introduction to the present report.

Graph 7
Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, United Nations Children's Fund



36. Six areas showed evidence of a relatively low implementation rate: financial overview; management of the Private Sector Division; Office of Emergency Programmes; Supply Division; Indian Ocean tsunami; and information technology, as shown in table 8.

[6] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 5B* (A/61/5/Add.2), chap. II.

Table 8
Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, by thrust areas

Topics	*Number of recommendations*	*Implemented*		*Under implementation*		*Not implemented*		*Overtaken by events*	
		Number	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
Financial overview	3	—	—	3	100	—	—	—	—
Presentation and disclosure of the financial statements	3	1	33	2	67	—	—	—	—
Non-expendable property	1	1	100	—	—	—	—	—	—
Accounts receivable and accounts payable	1	—	—	1	100	—	—	—	—
Finance and accounting manual	1	—	—	1	100	—	—	—	—
Write-off of losses	1	1	100	—	—	—	—	—	—
Management of the Private Sector Division	6	1	17	5	83	—	—	—	—
Office of Emergency Programmes	5	2	40	3	60	—	—	—	—
Supply Division	12	3	25	9	75	—	—	—	—
Indian Ocean tsunami	17	9	53	8	47	—	—	—	—
Inter-agency coordination	16	10	63	6	37	—	—	—	—
Office of Internal Audit	7	5	71	2	29	—	—	—	—
Executive offices	13	10	77	3	23	—	—	—	—
Information technology	9	2	22	7	78	—	—	—	—
Country audits	1	1	100	—	—	—	—	—	—
Total	**96**	**46**	**48**	**50**	**52**	—	—	—	—

37. As part of addressing the Board's concern about the need for UNICEF fund-raising activity to deal with the challenge of increasing regular resources in proportion to total income, the Administration stressed the strategic importance of regular resources to its donors through the multi-year funding framework, participation in two annual pledging events (United Nations and UNICEF) and advocacy, and by illustrating results-based actions at all levels using regular resources.

38. In respect of management of the Private Sector Division, the Administration stated that it had ensured compliance with the requirements cited in the cooperation agreements with National Committees, such as (a) development of the financial reporting annex to be attached to the Cooperation Agreement with National Committees and (b) work with the National Committees on the appropriate disclosure of the total support costs of raising funds and implementing programmes. The Administration has also completed its study of the options for harmonizing the accounting treatment of private sector fund-raising proceeds and will consider the

results/recommendations of the study in conjunction with the organizational review and the implementation of International Public Sector Accounting Standards.

39. In addressing the Board's observation on the emergency procurement of the Supply Division, UNICEF indicated that it would be establishing quality standards for the supply and logistics components of emergency preparedness and response plans, in conjunction with the review of the procurement strategy for emergencies.

40. UNICEF, in response to the tsunami, had (a) worked towards the approval of country programme workplans with the Governments of the tsunami-affected countries on the utilization of funds received in excess of initial requirements, (b) ensured that emergency funding would be allocated in accordance with appeals made or identified needs, (c) sought explicit donor approval to extend or modify the geographic or thematic reach of funds it was entrusted with, and (d) worked with the United Nations Development Group ExCom agencies to assess the financial and administrative capacity of its implementing partners.

41. UNICEF explained that it had continued to address issues on information and communications technology. It had established a global security operation centre to manage global logical controls and was developing automated alerts and statistics on the use of information technology resources. UNICEF also performed regular vulnerability assessments of firewalls within the evolving framework of the information technology security environment and budget availability.

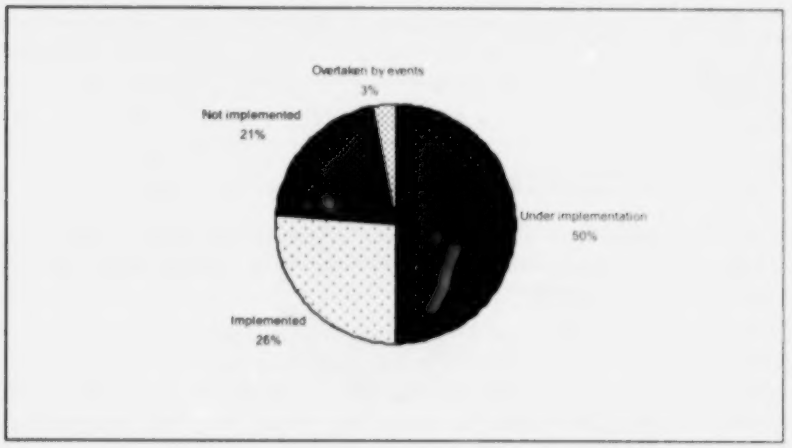
F. United Nations Relief and Works Agency for Palestine Refugees in the Near East

42. Of the 34 recommendations made by the Board with respect to the accounts of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) for the biennium 2004-2005,[7] UNRWA had implemented 9 (26 per cent), while 17 (50 per cent) were under implementation, 7 (21 per cent) had not been implemented and 1 (3 per cent) had been overtaken by events, as shown in graph 8. Those statistics were supplied by the internal oversight services of UNRWA, based on their tracking of the implementation of recommendations. They were verified by the Board, as explained in the scope and methodology section of the introduction to the present report.

[7] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 5C* (A/61/5/Add.3), chap. II.

Graph 8

Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, United Nations Relief and Works Agency for Palestine Refugees in the Near East



43. Five areas showed evidence of a relatively low implementation rate: procurement and contract management; human resources management; results-based management; programme and project management; and information and communications technology, as shown in table 9.

Table 9

Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, by thrust areas

Topics	*Number of recommendations*	*Implemented*		*Under implementation*		*Not implemented*		*Overtaken by events*	
		Number	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
Financial issues	2	1	50	1	50	—	—	—	—
Land and buildings	1	1	100	—	—	—	—	—	—
Procurement and contract management	4	1	25	2	50	1	25	—	—
Human resources management and area staff Provident Fund	8	1	13	4	50	2	25	1	13
Results-based management	5	1	20	4	80	—	—	—	—
Programme and project management	2	—	—	2	100	—	—	—	—
Treasury and cash management	1	1	100	—	—	—	—	—	—

Topics	Number of recommendations	Implemented		Under implementation		Not implemented		Overtaken by events	
		Number	Per cent	Number	Per cent	Number	Per cent	Number	Per cent
Microfinance and microenterprise programme	2	1	50	1	50	—	—	—	—
Information and communications technology	9	2	22	3	33	4	44	—	—
Total	**34**	**9**	**26**	**17**	**50**	**7**	**21**	**1**	**3**

44. The Board noted the low implementation rate of its recommendations of 26 per cent. Some of the recommendations were multi-year and required sustained effort in order to be fully implemented.

45. Information technology and human resources management made up half of the 34 recommendations, and 6 of the 17 recommendations had not been implemented. Management indicated that UNRWA had not finalized the information security policy and implementation plan to strengthen information and communications technology capacity.

46. Management commented that the three-year organization development internal management reform plan incorporated a human resources management strategy that had been developed through internal consultations and with the assistance of an external expert. The strategy focused on the key areas of staffing (retention, recruitment, succession and separation), training and development, performance management, compensation management, human resources delivery and gender equality.

47. As previously reported, UNRWA did not have policies/directives/guidelines to implement and sustain results-based management. Management has indicated that the establishment of results-based management was foreseen in its three-year organization development management reform plan.

48. Management commented that UNRWA remained determined to implement all outstanding recommendations as quickly as possible. The outstanding matters were linked to the Agency's organizational development process and depended on the availability of additional funding.

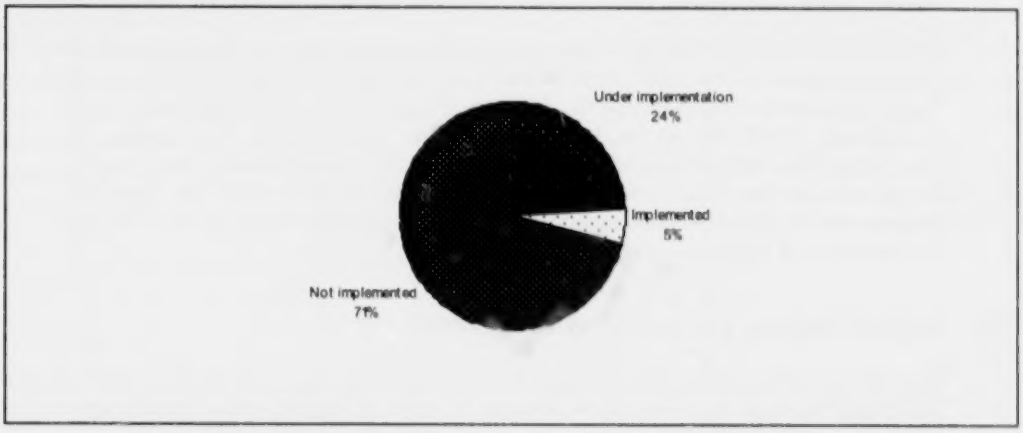
G. United Nations Institute for Training and Research

49. Of the 21 recommendations made by the Board with respect to the accounts of the United Nations Institute for Training and Research (UNITAR) for the biennium 2004-2005,[8] UNITAR had implemented 1 (5 per cent), while 5 (24 per cent) were under implementation and 15 (71 per cent) had not been implemented, as shown in graph 9. The status of implementation of the Board's recommendations presented

[8] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 5D* (A/61/5/Add.4), chap. II.

below was validated by the Board, as explained in the scope and methodology section of the introduction to the present report.

Graph 9
Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, United Nations Institute for Training and Research



Most areas showed evidence of a low implementation rate, including the programme of correspondence instruction, programme management, information and communications technology and fraud prevention and management, as shown in table 10.

Table 10
Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, by thrust areas

Topics	*Number of recommendations*	*Implemented*		*Under implementation*		*Not implemented*		*Overtaken by events*	
		Number	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
Liabilities for annual leave, end-of-service and post-retirement benefits	1	1	100	—	—	—	—	—	—
Financial statement	1	—	—	1	100	—	—	—	—
Programme of correspondence instruction	1	—	—	—	—	1	100	—	—
Cash management	1	—	—	1	100	—	—	—	—
Human resources management	1	—	—	1	100	—	—	—	—
Programme management	8	—	—	1	13	7	87	—	—
Information and communications technology	1	—	—	—	—	1	100	—	—

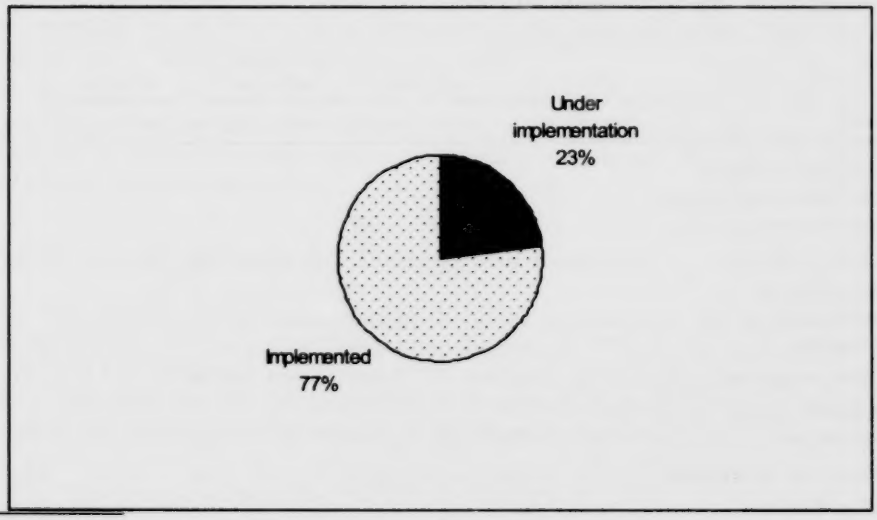
Topics	Number of recommendations	Implemented		Under implementation		Not implemented		Overtaken by events	
		Number	Per cent	Number	Per cent	Number	Per cent	Number	Per cent
Fraud prevention and management	7	—	—	1	14	6	86	—	—
Total	**21**	**1**	**5**	**5**	**24**	**15**	**71**	**—**	**—**

50. The Board was concerned that the Administration had not implemented its recommendation in four areas, as shown in table 10. The Board noted, however, that the Administration had indicated the creation of committees and assignment of staff to address 12 of the 15 recommendations not implemented. As regards the remaining three unimplemented recommendations, the Administration was not able to provide to the Board the required revised agreements with the UNITAR programme of correspondence institution, new rules of admission to its core training programme and fund-raising strategy.

H. United Nations Environment Programme

51. Of the 26 recommendations made by the Board with respect to the accounts of the United Nations Environment Programme (UNEP) for the biennium 2004-2005,[9] UNEP had implemented 20 (77 per cent), while 6 (23 per cent) were under implementation, as shown in graph 10. The status of implementation of the Board's recommendations presented below was not validated by the Board, as explained in the scope and methodology section of the introduction to the present report.

Graph 10
Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, United Nations Environment Programme



[9] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 5H* (A/61/5/Add.8), chap. II.

Table 11
Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, by thrust areas

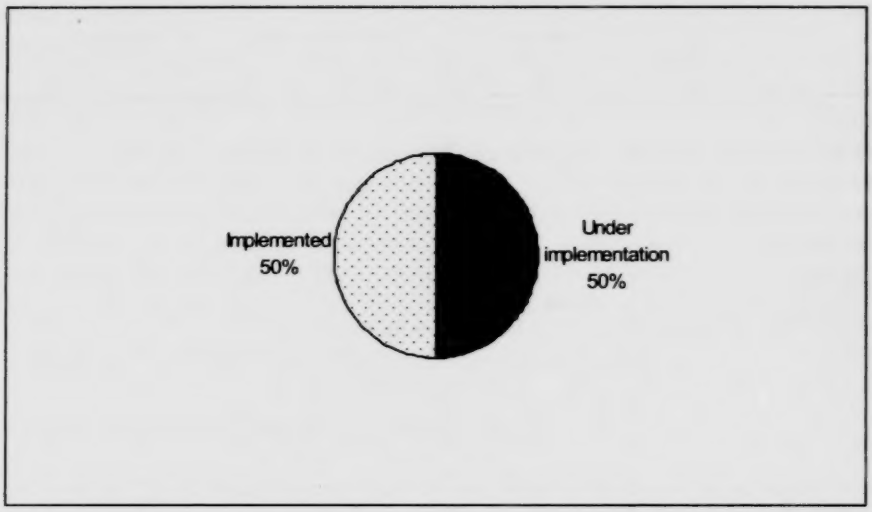
Topics	*Number of recommendations*	*Implemented*		*Under implementation*		*Not implemented*		*Overtaken by events*	
		Number	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
United Nations system accounting standards	5	4	80	1	20	—	—	—	—
Disclosure of financial statements	1	1	100	—	—	—	—	—	—
Financial management	6	6	100	—	—	—	—	—	—
Results-based budgeting	1	—	—	1	100	—	—	—	—
Non-expendable property	1	1	100	—	—	—	—	—	—
Consulting services	1	1	100	—	—	—	—	—	—
Human resources management	4	1	25	3	75	—	—	—	—
Inactive trust fund	1	1	100	—	—	—	—	—	—
Procurement	4	3	75	1	25	—	—	—	—
Inter-agency coordination	2	2	100	—	—	—	—	—	—
Total	**26**	**20**	**77**	**6**	**23**	**—**	**—**	**—**	**—**

I. United Nations Population Fund

52. Of the 42 recommendations made by the Board with respect to the accounts of the United Nations Population Fund (UNFPA) for the biennium 2004-2005,[10] UNFPA had implemented 21 (50 per cent), while 21 (50 per cent) were under implementation, as shown in graph 11. The status of implementation of the Board's recommendations presented below was not validated by the Board, as explained in the scope and methodology section of the introduction to the present report.

[10] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 5G* (A/61/5/Add.7), chap. II.

Graph 11
Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, United Nations Population Fund



53. Five areas showed evidence of a relatively low implementation rate: financial issues; procurement and contract management; results-based management; Division of Oversight Services; and human resources management, as shown in table 12.

Table 12
Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, by thrust areas

Topics	*Number of recommendations*	*Implemented*		*Under implementation*		*Not implemented*		*Overtaken by events*	
		Number	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
Financial issues	3	1	33	2	67	—	—	—	—
Information and communications technology	1	—	—	1	100	—	—	—	—
Programme and other expenditure	10	8	80	2	20	—	—	—	—
Procurement and contract management	9	3	33	6	67	—	—	—	—
Results-based management	2	—	—	2	100	—	—	—	—
Donor reporting	1	—	—	1	100	—	—	—	—
Shared services	1	1	100	—	—	—	—	—	—
Division of Oversight Services	3	1	33	2	67	—	—	—	—
Human resources management	9	4	44	5	56	—	—	—	—
Asset management	2	2	100	—	—	—	—	—	—
Fraud and presumptive fraud	1	1	100	—	—	—	—	—	—
Total	**42**	**21**	**50**	**21**	**50**	**—**	**—**	**—**	**—**

54. In the areas of procurement and contract management, as well as human resources management, 11 of 18 recommendations were under implementation. The policy for the receipt of gifts by Procurement Services Section staff was not in accordance with the United Nations policy. UNFPA commented that a suitable amendment would be made in the next regular update in summer 2007. The purchase orders for many low value purchases were not recorded on Atlas in a timely manner. Management has indicated that UNFPA was developing a query that would quantify the extent of the problem. UNFPA was monitoring compliance with the submission of procurement plans by the country office and implementation of the recommendation through the Post-Establishment Committee.

55. The inter-fund account with UNDP was not fully reconciled. Management explained that UNDP was reconciling that discrepancy. The reconciliation of education grants was not fully transferred to Atlas, and management indicated that efforts were ongoing to resolve system interface problems between IMIS and Atlas.

56. Management has indicated that in respect of the Division of Oversight Services, UNFPA planned to increase the capacity to meet requirements for reviewing financial data.

J. United Nations Human Settlements Programme (UN-Habitat)

57. Of the 18 recommendations made by the Board with respect to the accounts of United Nations Human Settlements Programme (UN-Habitat) for the biennium 2004-2005, UN-Habitat had implemented 14 (78 per cent), while 3 (17 per cent) were under implementation and 1 (5 per cent) had not been implemented, as shown in graph 12. The status of implementation of the Board's recommendations presented below was not validated by the Board, as explained in the scope and methodology section of the introduction to the present report.

Graph 12

Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, United Nations Human Settlements Programme

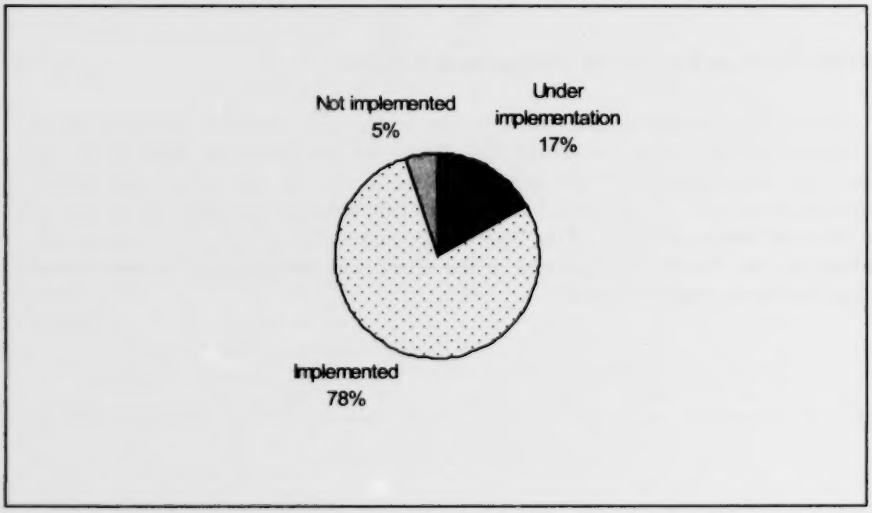


Table 13
Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, by thrust areas

Topics	*Number of recommendations*	*Implemented*		*Under implementation*		*Not implemented*		*Overtaken by events*	
		Number	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
United Nations system accounting standards	1	1	100	—	—	—	—	—	—
Disclosure of financial statements	1	—	—	—	—	1	100	—	—
Write-offs	1	1	100	—	—	—	—	—	—
Programme management	5	4	80	1	20	—	—	—	—
Funds management	2	1	50	1	50	—	—	—	—
Non-expendable property	4	4	100	—	—	—	—	—	—
Human resources management	3	3	100	—	—	—	—	—	—
Information and communications technology	1	—	—	1	100	—	—	—	—
Total	**18**	**14**	**78**	**3**	**17**	**1**	**5**	—	—

58. In paragraph 25 of its report (A/61/5/Add.8, chap. II), the Board recommended that the Administration conduct an inventory of expendable items as at the end of the biennium and account for as well as disclose them pursuant to paragraph 49 (iv) of the United Nations system accounting standards. The Administration indicated that paragraph 49 of the accounting standards on disclosure of assets, other than non-expendable property, did not apply. The Board deemed that that interpretation was contradicted by paragraph 49 (iv), according to which assets to be disclosed included "other assets, including, inter alia, inventories (other than non-expendable equipment, furniture and motor vehicles) and deferred charges". Therefore, the Board was of the view that that recommendation was not implemented.

K. United Nations Office on Drugs and Crime

59. Of the 30 recommendations made by the Board with respect to the accounts of the United Nations Office on Drugs and Crime for the biennium 2004-2005, the Office had implemented 19 (63 per cent), while 10 (33 per cent) were under implementation and 1 (4 per cent) had not been implemented, as shown in graph 13. The status of implementation of the Board's recommendations presented below was validated by the Board, as explained in the scope and methodology section of the introduction to the present report.

Graph 13
Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, United Nations Office on Drugs and Crime

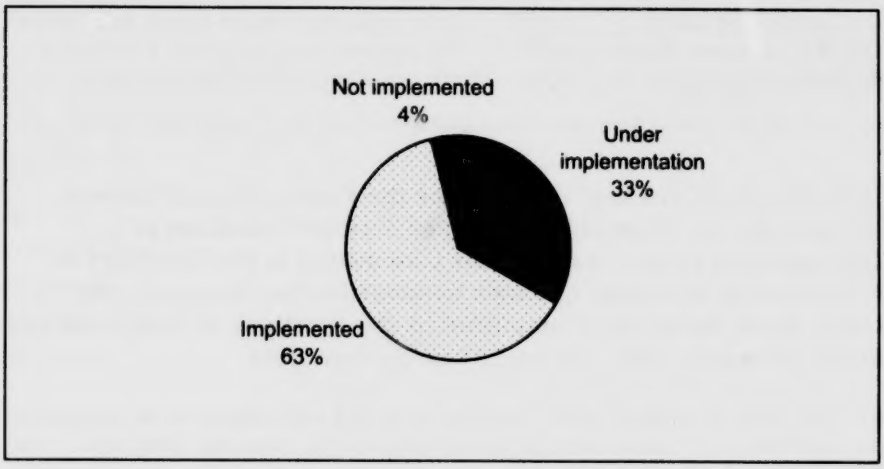


Table 14
Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, by thrust areas

Topics	*Number of recommendations*	*Implemented*		*Under implementation*		*Not implemented*		*Overtaken by events*	
		Number	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
Follow-up of General Assembly resolutions	1	1	100	—	—	—	—	—	—
Contributions	4	1	25	3	75	—	—	—	—
Miscellaneous income	1	1	100	—	—	—	—	—	—
Expenditures	2	2	100	—	—	—	—	—	—
Advances to be recovered	3	3	100	—	—	—	—	—	—
Unliquidated obligations	1	—				1	100	—	—
Cash and bank	3	1	34	2	66	—	—	—	—
Liabilities	1	—	—	1	100	—	—	—	—
Non-expendable property	1	1	100	—	—	—	—	—	—
Write-off	1	1	100	—	—	—	—	—	—
Procurement	4	3	75	1	25	—	—	—	—
Information and communications technology fraud prevention	6	4	67	2	33	—	—	—	—
Division for Policy Analysis and Public Affairs	2	1	50	1	50	—	—	—	—
Total	**30**	**19**	**63**	**10**	**33**	**1**	**4**	**—**	**—**

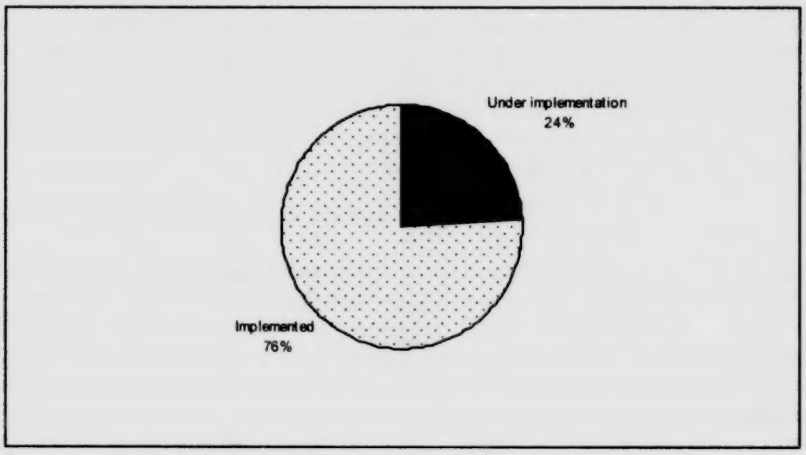
60. In paragraph 66 of its report (A/61/5/Add.9, chap. II), the Board recommended that external auditors of nationally executed expenditures refer explicitly to United Nations accounting standards to ensure that audited expenditures include disbursements and unliquidated obligations. The Administration replied that expenditures on nationally executed projects were recorded on a cash basis as per UNDP procedures. Therefore, audits of NEX projects would continue to be based on the disbursements reported in the combined delivery reports for those projects.

61. The Board would keep the matter under review in the current audit cycle.

L. International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

62. Of the 33 recommendations made by the Board with respect to the accounts of the International Criminal Tribunal for Rwanda for the biennium 2004-2005,[11] the Tribunal had implemented 25 (76 per cent), while 8 (24 per cent) were under implementation, as shown in graph 14. The status of implementation of the Board's recommendations presented below was validated by the Board, as explained in the scope and methodology section of the introduction to the present report.

Graph 14
Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, International Criminal Tribunal for Rwanda



63. The Board noted the relatively low implementation rate on human resources management, as shown in table 15.

[11] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 5K* (A/61/5/Add.11), chap. II.

Table 15
Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, by thrust areas

Topics	*Number of recommendations*	*Implemented*		*Under implementation*		*Not implemented*		*Overtaken by events*	
		Number	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
Accounts receivable	2	2	100	—	—	—	—	—	—
Completion strategy and implementation	2	2	100	—	—	—	—	—	—
Legal aid system	1	1	100	—	—	—	—	—	—
Defense counsel expenditure	1	1	100	—	—	—	—	—	—
Performance management	1	—	—	1	100	—	—	—	—
Non-expendable equipment	2	2	100	—	—	—	—	—	—
Procurement and contract management	12	11	92	1	8	—	—	—	—
Human resources management	9	4	44	5	56	—	—	—	—
Information and communications technology	2	2	100	—	—	—	—	—	—
Fraud and presumptive fraud	1	—	—	1	100	—	—	—	—
Total	**33**	**25**	**76**	**8**	**24**	**—**	**—**	**—**	**—**

64. The Tribunal indicated that the recommendations in respect of human resources management that were under implementation were (a) use of general temporary assistance, (b) vacancy rates, (c) education grants, (d) home leave and (e) performance appraisal. The Tribunal had initiated steps such as establishing a general temporary assistance committee to evaluate the use and engagement of staff on general temporary assistance, making efforts to reduce the vacancy rates, updating education grant information in the Field Personnel Management System, completing documentation for home leave claims and conducting e-PAS training.

65. The Tribunal indicated that it was in the process of implementing the results-based budgeting mechanism, but that full implementation would require more resources and proper training.

M. International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

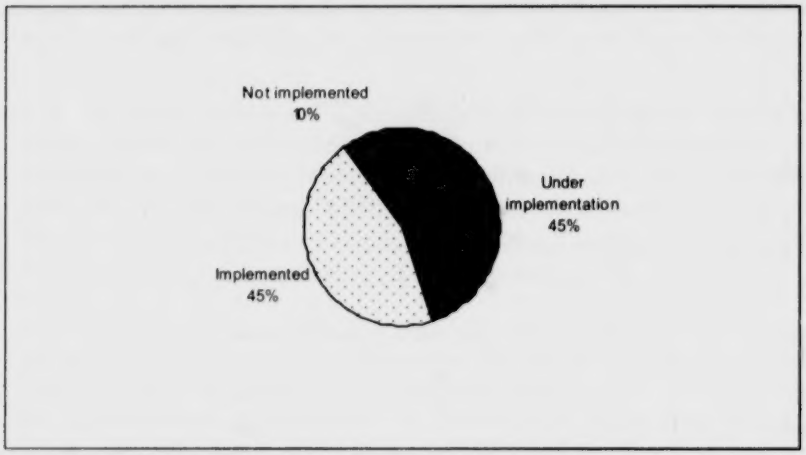
66. Of the 11 recommendations made by the Board with respect to the accounts of the International Tribunal for the Former Yugoslavia for the biennium 2004-2005,[12] the Tribunal had implemented 5 (45 per cent), while 5 (45 per cent) were under implementation and 1 (10 per cent) had not been implemented, as shown in graph 15. The status of implementation of the Board's recommendations presented

[12] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 5L* (A/61/5/Add.12), chap. II.

below was validated by the Board, as explained in the scope and methodology section of the introduction to the present report.

Graph 15

Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, International Tribunal for the Former Yugoslavia



67. Two areas showed evidence of a relatively low implementation rate: foreign exchange rates and human resources management, as shown in table 16.

Table 16

Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, by thrust areas

		Implemented		*Under implementation*		*Not implemented*		*Overtaken by events*	
Topics	*Number of recommendations*	*Number*	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
Financial overview	1	1	100	—	—	—	—	—	—
Information on variations in exchange rates	1	—	—	—	—	—	—	1	100
Deferred charges	1	1	100	—	—	—	—	—	—
Liabilities for end-of-service and post-retirement benefits	1	—	—	1	100	—	—	—	—
Completion strategy	1	—	—	1	100	—	—	—	—
Staff allowances	2	1	50	1	50	—	—	—	—
Bilingualism	1	1	100	—	—	—	—	—	—
Premises in Sarajevo	1	1	100	—	—	—	—	—	—
Human resources management	2	—	—	2	100	—	—	—	—
Total	**11**	**5**	**45**	**5**	**45**	**—**	**—**	**1**	**100**

68. As regards the Board's recommendations on human resources management, the Tribunal would continue its effort to recruit and promote women Tribunal posts and to ensure equitable representation of Member States.

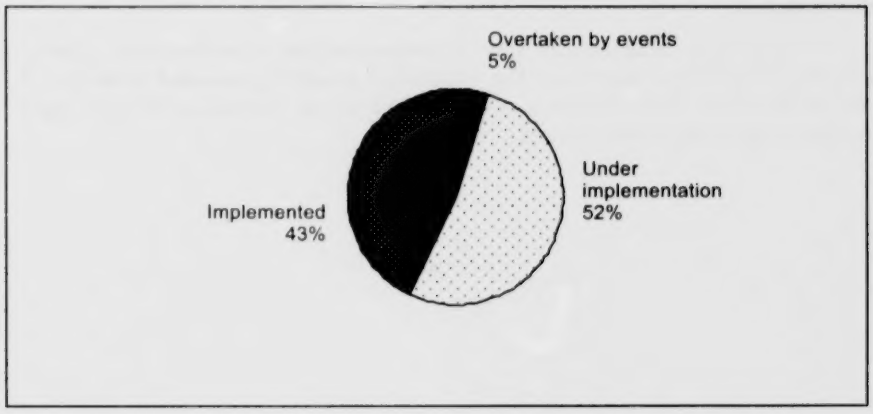
69. As to the Board's concern about the Tribunal's effective capacity to cover its liabilities for end-of-service and post-retirement benefits, the Tribunal had proposed funding for after-service health insurance benefits, which was under consideration by the Fifth Committee of the General Assembly (see A/61/730). It was also in the process of finalizing a document covering all legacy issues. The legacy policy paper was discussed by a Security Council working group with both Tribunals (the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda). Related financial implications were to be submitted to the Assembly at its fall 2007 session.

N. United Nations Joint Staff Pension Fund

70. Of the 21 recommendations made by the Board with respect to the accounts of the United Nations Joint Staff Pension Fund (UNJSPF) for the biennium 2004-2005,[13] the Fund had implemented 9 (43 per cent), while 11 (52 per cent) were under implementation and 1 (5 per cent) had been overtaken by events, as shown in graph 16. The status of implementation of the Board's recommendations presented below was validated by the Board, as explained in the scope and methodology section of the introduction to the present report.

Graph 16

Overall status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, United Nations Joint Staff Pension Fund



[13] See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 9* (A/61/9), chap. II.

71. The Board noted the complete implementation of recommendations in a number of areas. Two areas, however, showed evidence of a relatively low implementation rate: investment management and fund administration, as shown in table 17.

Table 17
Status of implementation of the recommendations of the Board of Auditors for the biennium 2004-2005, by thrust areas

Topics	*Number of recommendations*	*Implemented*		*Under implementation*		*Not implemented*		*Overtaken by events*	
		Number	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*	*Number*	*Per cent*
Actuarial valuation	1	1	100	—	—	—	—	—	—
Accounting organization	1	1	100	—	—	—	—	—	—
Contributions receivable	1	—	—	—	—	—	—	1	100
Bank reconciliation	1	—	—	1	100	—	—	—	—
Investment management	7	3	43	4	57	—	—	—	—
Fund administration	7	2	33	5	83	—	—	—	—
Information and communications technology	2	2	100	—	—	—	—	—	—
Performance management	1	—	—	1	100	—	—	—	—
Total	**21**	**9**	**43**	**11**	**52**	**—**	**—**	**1**	**5**

72. Investment management and fund administration were of particular concern, as those areas made up 14 of the 21 recommendations from the Board's report on the biennium 2004-2005 and 9 of the 11 recommendations that were under implementation.

73. The Investment Management Service commented that a detailed asset-liability management study was under way. The final report would be presented to the Board of the Fund in July 2007. Furthermore, the Service was in the process of acquiring a new trade order management system.

IV. Acknowledgement

74. The Board wishes to express its appreciation to the United Nations organizations and their staff for the cooperation and assistance they provided to the Board's teams in the course of the preparation of the present report.

(*Signed*) Philippe **Séguin**
First President of the Court of Accounts of France and
Chairman, United Nations Board of Auditors

(*Signed*) Terence **Nombembe**
Auditor-General of the Republic of South Africa

(*Signed*) Guillermo N. **Carague**
Chairman, Philippine Commission on Audit

29 June 2007

Note: The Philippines and the South African members of the Board of Auditors have signed only the English version of the report; the French member of the Board has signed the English and the French versions.

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Sixty-second session
Item 88 of the preliminary list*
The rule of law at the national and international levels

The rule of law at the national and international levels: comments and information received from Governments

Report of the Secretary-General

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* A/62/50.

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I. Introduction

1. In its resolution 61/39, entitled "The rule of law at the national and international levels", the General Assembly requested the Secretary-General to seek the views of Member States on matters pertaining to the issues addressed in the resolution and to submit a report thereon at its sixty-second session.

2. By a note verbale dated 18 December 2006, the Secretary-General invited Governments to submit, no later than 16 April 2007, their views on matters pertaining to the issues addressed in resolution 61/39.

3. As of 21 June 2007, the Secretary-General had received views expressed by Austria (dated 16 April 2007), Egypt (4 May 2007), Finland (20 April 2007), France (30 April 2007), Germany (20 April 2007, in its national capacity and in its capacity as Presidency of the European Union), Kuwait (30 April 2007), Lebanon (27 April 2007), the Libyan Arab Jamahiriya (17 April 2007), Liechtenstein (1 May 2007), Mexico (16 April 2007), the Netherlands (22 May 2007), Qatar (28 February 2007), Sweden (30 May 2007) and the United States of America (16 April 2007). Those views are presented below.

II. Views expressed by Member States on matters pertaining to the issues addressed in General Assembly resolution 61/39

Austria

[Original: English]

1. Austria fully aligns itself with the information to be submitted by Germany on behalf of the European Union. In addition, Austria would like to offer the following views on matters pertaining to the issues addressed in resolution 61/39.

1. Introduction and general remarks

2. Austria is a long-time advocate of international law and the rule of law. We strongly support the commitment made at the 2005 World Summit to the purposes and principles of the United Nations Charter and international law and to an international order based on the rule of law and international law, which is essential for peaceful coexistence and cooperation among States. In our view, it is essential that the international system be governed by international law and the rule of law. Clear and foreseeable rules, adherence to these rules and a system to prevent or sanction violations of rules are preconditions for lasting peace and security.

3. Austria warmly welcomed the announcement by Secretary-General Kofi Annan in his address to the fifty-ninth session of the General Assembly to make the strengthening of the rule of law a priority of the United Nations. We were equally pleased to see the special attention given to this issue in the Secretary-General's report, "In larger freedom: towards development, security and human rights for all" (A/59/2005). We share the view that the rule of law, together with human rights and democracy, is one of the key elements to advance larger freedom, peace and security for all.

4. The 2005 World Summit Outcome was an important step in strengthening an international order based on the rule of law and international law. During the preparatory process, Austria played a very active role in efforts to include language in this regard. We strongly support the many references to international law and the rule of law in the final document adopted by the Heads of State and Government, including the idea of establishing a Rule of Law Assistance Unit within the Secretariat in order to strengthen United Nations activities to promote the rule of law.

5. Austria welcomes and fully supports the report of the Secretary-General, "Uniting our strengths: enhancing United Nations support for the rule of law" (A/61/636 and Corr.1), which highlighted the centrality of the rule of law to the work of the United Nations and announced the decision to establish a Rule of Law Coordination and Resource Group with a small Secretariat Unit to act as focal point for coordinating system-wide rule of law activities. Over the past years, together with other like-minded countries, Austria has repeatedly called for the establishment of such a unit with a broad mandate for the coordination, streamlining and promotion of all rule of law activities of the United Nations system. We support the designation of lead entities with specified responsibilities to ensure coherence, predictability and accountability in the delivery of rule of law assistance to Member States.

6. Austria supports a broad concept of the rule of law. While we note that, for purposes of coherence and coordination, the Secretary-General in his report decided to group the rule of law activities of the United Nations into three main "baskets", we believe that these baskets are merely illustrative and should not prevent the United Nations from adopting an overall and comprehensive approach to all rule of law activities of the United Nations system. In our view, it is imperative to strengthen the rule of law in all its dimensions, that is, at the national, international and institutional levels.

2. Strengthening the rule of law at the national level

7. At the national level, the main focus is frequently placed on activities and projects for capacity-building and assistance to re-establish the rule of law in conflict and post-conflict societies. However, in our view, the strengthening of the rule of law at the national level is a key element not only for peace and security, but also for development and economic prosperity. Therefore, the numerous important efforts of the United Nations, Member States and other international organizations to promote the rule of law in national legal systems irrespective of a conflict situation must not be neglected.

8. In order to illustrate the variety of activities to strengthen the rule of law at the national level by actors outside the United Nations system, Austria would like to highlight some examples of rule of law projects in the framework of the European Union, the Organization for Security and Cooperation in Europe, as well as the bilateral Austrian Development Cooperation. The list is not exhaustive and includes only projects to which Austria contributes or in which Austria is directly involved.

2.1. European Union

9. In July 2005, the European Union set up an Integrated Rule of Law Mission for Iraq (EUJUST LEX) aimed at strengthening the Iraqi criminal justice system

through training courses for Iraqi officials. Austrian experts and trainers have been involved in these courses and Austria is envisaging organizing a course in Austria in 2008.

10. Since the beginning of 2006, Austria has been seconding the Rule of Law Adviser to the European Union Police Mission for the Palestinian Territories (EUPOL COPPS), who, inter alia, elaborated a report on the background, development and legislative framework of the criminal justice system in the Palestinian territories.

11. The European Union Planning Team for Kosovo (EUPT Kosovo) was set up in April 2006 to prepare for the deployment in 2007 of a civilian police and rule of law mission in Kosovo. Austria is participating in EUPT Kosovo with justice and police experts and is planning to second additional justice experts and police officers to a future European Union mission in order to strengthen the rule of law in Kosovo.

12. The rule of law is a central issue in the field of civilian crisis management in the framework of the European Security and Defence Policy. Consequently, the concept of rule of law and civilian response teams (CRTs), a rapid reaction mechanism in the civilian field aiming at the improvement of the civilian crisis management capacity of the European Union, is of great importance. The CRT roster also includes Austrian rule of law experts.

2.2. Organization for Security and Cooperation in Europe

13. The Organization for Security and Cooperation in Europe supports the rule of law in participating States by stepping up anti-corruption actions and launching strategies for law enforcement. It gives recommendations for legislative reforms and for monitoring the humanitarian situation, including the return of refugees, internally displaced persons and trafficking in human beings. Specific projects range from assistance to legal clinics to supporting ombudspersons and human rights institutions.

14. Recent projects include the following: prevention of torture (Kyrgyzstan 2006); fostering the development of appropriate remedy standards of State liability in cases of human rights violations (Ukraine 2006); fighting corruption through the development and publication of a handbook on oversight and control over local executives (Kyrgyzstan 2006); improving police training processes (Georgia 2006); assistance in strengthening democratic governance practices (election issues and central voter registry) (Ukraine 2005); Democratic governance programme (ODIHR 2005); Legislation reform programme (ODIHR 2004).

2.3. Austrian Development Cooperation

15. The rule of law is an important feature of Austrian Development Cooperation policy and activities in the area of governance. Austrian Development Cooperation focuses in particular on the following aspects: (a) improving access to civil and criminal law mechanisms; (b) human security (observance of human and minority rights); and (c) support for ombudsperson institutions.

16. Recent projects include the following: (a) *Legal and judicial development*: supporting traditional Gacaca courts to deal with the massive atrocities of the genocide of 1994 (Rwanda); child justice reform (Namibia); (b) *Government administration*: gender mainstreaming and capacity-building for local government

(South Africa); creation of a modern cadastral register and administration (Bosnia and Herzegovina); local government development programme (Uganda); (c) *Human rights*: paralegal training and advocacy programme (Uganda); human rights and efficient justice administration in prisons (Ethiopia); improving post-release opportunities for women prisoners (including with small children) (Afghanistan); (d) *Civilian peacebuilding and conflict prevention and resolution*: global partnership for the prevention of armed conflict (implemented by the European Centre for Conflict Prevention); support to the independent Central Election Commission for conducting the Legislative Council elections in 2006 (Palestinian territories).

3. Strengthening the rule of law at the international level

17. As regards the international level, Austria reaffirms its long-standing support for an international order based on international law and the rule of law and welcomes the references in the 2005 World Summit Outcome to this effect.

18. Austria strongly supports the numerous efforts and activities of the United Nations, through its various organs, to strengthen the rule of law at the international level: the General Assembly, together with its Sixth Committee, the International Law Commission and the United Nations Commission on International Trade Law, play an important role in strengthening the rule of law through the codification and progressive development of international law. Austria is a very active member of the Sixth Committee and has hosted numerous codification conferences in Vienna, for example, on the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations and the Vienna Convention on the Law of Treaties.

19. Promoting adherence to and implementation of international treaties is a key element of strengthening the international rule of law. Austria welcomes and supports the efforts of the United Nations, especially the Office of Legal Affairs, to increase the signature, ratification and accession to treaties by organizing annual treaty events and providing assistance and training to Member States to this end. The European Union is currently discussing possible ways to promote the international rule of law by promoting the ratification and implementation of core treaties.

20. The peaceful settlement of disputes lies at the heart of a rules-based international system. Austria reaffirms the important role of the International Court of Justice, as the principal judicial organ of the United Nations, in ensuring respect for international law and the rule of law as well as in the context of maintaining and restoring international peace and security. Austria has accepted the compulsory jurisdiction of the Court pursuant to article 36 (2) of its Statute and, in accordance with the 2005 World Summit Outcome, calls upon all States that have not yet done so to accept the jurisdiction of the Court as well. In order to enable the Court to perform its important function in the most efficient and expeditious manner, we support considering means of strengthening the Court's work, including by providing it with adequate financial and personal resources.

21. The World Conference on Human Rights, which was hosted in Vienna in 1993, reaffirmed the inseparable link between the rule of law and the protection and promotion of human rights. Austria actively supports the development of human rights standards in the General Assembly, its Third Committee, the Human Rights Commission and its successor body, the Human Rights Council. Austria is a party to

all major human rights conventions and has also signed the two most recent Conventions, that is, the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities. For several years, Austria has been introducing the biennial resolutions on human rights in the administration of justice in the Third Committee and the Commission on Human Rights, respectively.

22. Criminal justice is an essential aspect of the rule of law both at the national and international levels. Austria strongly supports all efforts to strengthen international criminal justice, including through international criminal courts, ad hoc or mixed tribunals and truth commissions, in order to fight impunity for the most serious international crimes. Justice is a key element for lasting peace and reconciliation. The United Nations and its Member States must ensure that those responsible for the most serious crimes are held accountable.

23. The International Criminal Court, as the most important tool to combat impunity and to prevent genocide, crimes against humanity and war crimes, greatly contributes to the strengthening of the rule of law and respect for human rights. In order to achieve universal acceptance of the Rome statute, we urge all States that have not yet done so to ratify it or accede to it without delay. We strongly encourage the Security Council to continue to make use of its competence to refer situations to the International Criminal Court, even in cases where countries are not States parties to the Court's statute.

24. Austria is a strong supporter of the International Criminal Court and an active member of the Bureau of its Assembly of States parties. It was among the first countries that signed and ratified the Agreement on the Privileges and Immunities of the Court and the first State party that entered into an agreement with the Court on the enforcement of sentences. Austria attaches particular importance to the issue of cooperation and non-cooperation of States parties with the Court. During the Austrian Presidency of the European Union, the Union and the Court signed a Cooperation and Assistance Agreement. In spring 2006, Austria also organized a regional conference for countries in the Commonwealth of Independent States and an international seminar on the perspectives of the International Criminal Court review process.

25. In the same vein, Austria supports the efforts of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda to successfully accomplish their completion strategies. Moreover, Austrian judges are serving at the Yugoslavia Tribunal, the Special Court for Sierra Leone and the Extraordinary Chambers in the Courts of Cambodia. Austria is also among the voluntary financial contributors to these tribunals.

4. Strengthening the rule of law at the institutional level

26. Strengthening the rule of law at the institutional level[1] requires that rules are fully respected within and by the United Nations and its organs, as well as other international organizations. The United Nations, which is very much involved in

[1] While some regard the rule of law at the institutional level as a sub-category of the rule of law at the international level, we prefer to discuss the rule of law at the institutional level as a separate category in order to highlight the importance of strengthening the rule of law within international organizations.

advocating and promoting the rule of law, must also live up to its own standards internally. As the Secretary-General has put it, the United Nations must "practice what it preaches".[2] Thus, the United Nations itself needs clear and foreseeable internal rules and must ensure adherence to these rules. If violations of the rules occur, those responsible must be held accountable. All Member States should assist the Secretary-General and his staff to fulfil the high expectations, while respecting the independence and "exclusively international character" of the Secretariat.

27. Austria believes that the reform of the United Nations system of administration of justice[3] is long overdue and necessary to strengthen the rule of law within the United Nations. The United Nations has a duty to provide to its staff a system of justice which is fair, effective and fully consistent with international human rights standards. In the Sixth Committee, Austria has strongly argued that the new system must be in conformity with relevant rules of international law and principles of the rule of law and due process. Adequate safeguards must be taken to ensure equal access of all staff to justice and the right to be heard. Transparency of proceedings and publication of decisions in the formal system should be ensured, while respecting the protection of personal data.

28. In order to strengthen the rule of law within the Organization, Austria strongly believes that the United Nations and its Member States must also work together to ensure the accountability of United Nations staff and experts on mission with respect to criminal acts committed in peacekeeping operations.[4] Criminal acts, especially offences related to sexual exploitation and abuse, must never go unpunished and the perpetrators of such crimes must be held accountable. We must ensure that United Nations staff and experts on mission would not be effectively exempt, owing to their special status, from being held accountable for their acts. We must give a clear political signal that we will not tolerate criminal misconduct by individuals in peacekeeping operations and that we are fully committed to preventing and prosecuting any such activity. This is a serious concern and we must treat it as a matter of urgency.

29. Sanctions imposed by the Security Council play an important role in maintaining international peace and security, fighting terrorism and promoting compliance with international law and the rule of law. However, when targeting individuals and entities, sanctions also raise certain questions regarding the rule of law, including procedural guarantees and due process. Austria reiterates the call of the 2005 World Summit upon the Council to ensure that fair and clear procedures exist for placing individuals and entities on sanctions lists and for removing them, as well as for granting humanitarian exemptions. Austria stresses the importance of upholding certain minimum standards to ensure fair and clear procedures (e.g. the right to be informed, the right to be heard, the right to review by effective remedy, the right to periodic review), as identified by the Secretary-General,[5] when designing and implementing sanctions. We regard the establishment of a focal point to receive de-listing requests in accordance with Council resolution 1730 (2006), the recommendations of the Informal Working Group on General Issues of Sanctions, as endorsed by the Council in its resolution 1732 (2006), and the recent revision of the

[2] A/61/758, para. 5 (b).

[3] See A/61/205 and A/61/758.

[4] See A/60/980.

[5] See S/PV.5474, p. 5.

listing and de-listing procedures in the guidelines of the Security Council Committee established pursuant to resolution 1267 (1999) according to Council resolution 1735 (2006) as important steps in the right direction and call upon the Council to continue its efforts to this end.

5. Austrian rule of law initiative: "The Security Council and the rule of law"

30. The Security Council, given its unique role and function to maintain international peace and security, promotes the rule of law and the international legal order through various measures, such as the establishment of international criminal tribunals, border and inquiry commissions, complementing the legal framework for countering terrorism and the proliferation of weapons of mass destruction and enforcing the compliance with rules through the imposition of sanctions. We welcome initiatives, including the holding of open debates in the Council, such as the one on 22 June 2006,[6] to highlight the Council's efforts in this regard.

31. At the fifty-ninth session of the General Assembly, as a contribution to the Secretary-General's efforts to make the strengthening of the rule of law a priority of the Organization, Austria launched an initiative on "The role of the Security Council in strengthening a rules-based international system". Starting in November 2004, the Austrian Mission, in cooperation with the Institute for International Law and Justice at the New York University School of Law, has convened a series of panel discussions on various aspects of the central theme, such as "The Security Council as world legislator?" (November 2004), "Who needs rules?" (May 2005), "The Security Council as world judge?" (October 2005), "The Security Council as world executive?" (October 2006) and "The Security Council and the individual" (March 2007).[7] A wrap-up panel on "The Security Council and the rule of law" is planned for November 2007. As a result of this process, with the support and strategic guidance of an advisory group, we intend to publish a report on "The Security Council and the rule of law" with specific recommendations on how the Council could support the rule of law in its various fields of activity in order to strengthen an international system based on rules.

6. Strengthening coordination and cooperation

32. Given the wide range of activities and the involvement of numerous actors in the field of the rule of law as highlighted above, better coordination of and cooperation on rule of law activities is needed both within the United Nations system as well as among the United Nations, Member States and other international organizations in order to avoid duplication and overlap and to promote synergy, efficiency and coherence of the various activities.

33. Over the past years, together with other like-minded countries, Austria has repeatedly called for the establishment of a Rule of Law Unit within the United Nations Secretariat, as supported by the 2005 World Summit, with a broad mandate for the coordination, streamlining and promotion of all activities of the United Nations system to strengthen the rule of law. We were therefore very pleased that the Secretary-General, in his report entitled "Uniting our strengths: enhancing United Nations support for the rule of law", announced his decision to establish a

[6] See S/PV.5474.

[7] For further information see http://www.bmaa.gv.at/newyorkov.

Rule of Law Coordination and Resource Group within the Secretariat, chaired by the Deputy Secretary-General and supported by a small Secretariat Unit, to act as focal point for coordinating system-wide rule of law activities. We are grateful to the Deputy Secretary-General for organizing an informal briefing of the General Assembly on 12 April 2006 to present the report.

34. Austria expresses its strong support for the establishment of the Rule of Law Coordination and Resource Group and its Secretariat Unit. Austria considers the establishment of the Group and the Unit an important step to implement the World Summit Outcome, which demonstrates the determination to make the strengthening of the rule of law a priority of the United Nations. We believe that in order to effectively coordinate all rule of law activities of the United Nations system, the Group and the Unit would be best located at the highest level in the Secretariat, that is, the Executive Office. This seems most practical, since the Group and the Unit will be chaired by the Deputy Secretary-General, and would also show the importance which the United Nations attaches to this matter.

35. Austria hopes that the Group and the Unit will soon become fully operational. We call upon the Secretary-General and Member States to provide all the necessary assistance and support to the Unit, including through voluntary contributions and the secondment of personnel and, after the initial phase, financing from the regular budget, in order to ensure that it can fulfil its important functions in a proper and sustainable manner.

36. In order to strengthen coordination and cooperation of the various activities and actors in the field of the rule of law within the United Nations system, we support the following three-step approach:

(a) Stocktaking, by preparing an inventory of the current activities of the various organs, bodies, offices, departments, funds and programmes within the United Nations system devoted to the promotion of the rule of law at the national and international levels, as requested by the General Assembly in paragraph 2 of its resolution 61/39;

(b) Streamlining the rule of law activities listed in the inventory within each of the three main "baskets" in order to avoid duplication and overlap and to promote synergy, efficiency and coherence among the various actors;

(c) Strengthening specific activities in cases of identified priority gaps in capacity of the United Nations that need to be filled in the rule of law area, with special regard to the effectiveness of assistance that may be requested by the States in building capacity for the promotion of the rule of law at the national and international levels, as requested by the General Assembly in paragraph 3 of its resolution 61/39.

7. Future work of the Sixth Committee

37. Austria strongly supported the initiative by Liechtenstein and Mexico to include a new item on the agenda of the General Assembly on "The rule of law at the national and international levels".[8] We consider this agenda item, which was allocated to the Sixth Committee, to be a very important follow-up of the 2005 World Summit.

[8] See A/61/142.

38. Austria supports the idea of annually choosing a meaningful and manageable sub-topic to facilitate a focused discussion in the Sixth Committee. We welcome the fact that paragraph 5 of resolution 61/39 provides that as from the sixty-second session and after consultations among Member States, the Sixth Committee should annually choose one or two sub-topics to facilitate a focused discussion for the subsequent session, without prejudice to the consideration of the item as a whole.

39. It follows that during the sixty-second session of the General Assembly, this agenda item will once more be considered as a whole. However, in the debate, Member States should be guided by the following reports to be prepared by the Secretary-General for that session according to resolution 61/39:

- Report on the views of Member States on matters pertaining to the issues addressed in resolution 61/39
- Interim report on the inventory of the current activities of the various organs, bodies, offices, departments, funds and programmes within the United Nations system devoted to the promotion of the rule of law at the national and international levels
- Report on "Uniting our strengths: enhancing United Nations support for the rule of law" of 14 December 2006.

40. We believe that on the basis of these reports, the debate in the Sixth Committee during the sixty-second session should focus on a stocktaking of the current rule of law activities within the United Nations system listed in the inventory as well as the Secretary-General's report on "Uniting our strengths", including the work of the newly established Rule of Law Coordination and Resource Group and Unit.

41. Austria supports an early start of the consultation process to select one or two sub-topics for discussion during the sixty-third session of the General Assembly, which will have to be agreed upon already during the sixty-second session. Austria holds the view that "Strengthening criminal justice at the national and international levels" would be a most suitable sub-topic for discussion, as it deals with one of the most topical and important sub-categories of the rule of law. We believe that the topic is well balanced, being neither too broad nor too narrow. It addresses both the national and international levels and could include issues ranging from technical assistance and capacity-building to strengthen national criminal justice systems to legacy issues of international criminal tribunals.

Egypt

[Original: Arabic]

1. As the Egyptian delegation has previously stated in the Sixth Committee, Egypt welcomes the inclusion of the item on the study of the rule of law at the national and international levels because of its importance, and looks forward to further cooperation with the Member States during the discussion of this matter.

2. The development of the rule of law at the national and international levels calls for detailed study and clear agreement in principle among the Member States of the Organization on the definition of the rule of law before embarking on substantive aspects of implementation.

3. In order to reach a definition of the rule of law at the national and international levels, we must rely on the general principles of law consistent with the foundations of justice, democracy, human rights, the equality of all before the law, respect for State sovereignty, safeguarding the right of legitimate self-defence, avoidance of the misuse of that right, the prohibition of the use of force or the threat thereof and also the safeguarding of the principle of balance between rights and obligations in accordance with the principles of the aforementioned law.

4. At the international level, Egypt is in favour of focusing on the study of the following:

(a) Methods of work and the adoption of resolutions by international organizations, specifically the United Nations, to ensure the application of the principles of international law, in particular the provisions of the Charter;

(b) Achieving democracy in the expression of the will of the majority of Member States when adopting and implementing United Nations resolutions;

(c) The implications of failure to implement resolutions of international organizations, primarily the United Nations, as well as the failure to implement the judgments of international courts and tribunals, foremost among them being the judgments and advisory opinions of the International Court of Justice, in implementation of the provisions of the United Nations Charter, specifically Articles 2 and 25 thereof;

(d) The impact on non-compliance with resolutions of international organizations of failure to implement the principle of the equality of all before the law.

5. At the national level, Egypt is in favour of focusing on the study of the following:

(a) Respect for the sovereignty of States over their territory and their right to make their own choice of the optimal legal regime, based on general principles of law;

(b) Provision, on request, to States of assistance in building up their capacity for the establishment of a just legal system;

(c) Respect for the principle of the territoriality of law and the non-recourse by a State to the adoption of national laws having civil or criminal jurisdiction extending beyond the State's territorial borders and the imposition of such laws on citizens of another State without support from international conventions or the principles of international law.

6. Egypt attaches importance to the study of the relationship between extending the rule of law at the international level and its implications for the rule of law at the national level, above all the implications of cases of aggression, armed struggle, occupation and the illegal use of force.

7. Egypt is working to promote the principles of law and justice at the national and international levels. At the national level, it is reviewing all its laws to bring them into conformity with its international obligations and ensure that they are keeping pace with social developments. At the international level, Egypt participates in support for the rule of law and justice and provides assistance to States to support their capacities in those two fields, in particular through the Fund for Technical

Cooperation with Africa, which offers training programmes for African personnel in such fields as security, justice and foreign affairs; through the fund of the Commonwealth of Independent States, Egypt provides technical support for the newly independent countries in the region in the fields of security and diplomacy.

8. Egypt attaches importance to the in-depth study of the responses of the Member States and to the report that is to be submitted by the Secretary-General to the General Assembly at its sixty-third session concerning the activities of various United Nations bodies working in the field of the rule of law.

Finland

[Original: English]

1. Finland aligns itself with the comments submitted by Germany on behalf of the European Union and wishes to present the following views on matters pertaining to the issues addressed in General Assembly resolution 61/39.

2. Finland is deeply committed to strengthening the rule of law both at the national and international levels. Upholding and developing an international order based on the rule of law is of utmost importance in the relations among States. Respect for international law is a prerequisite for international peace and security. Likewise, the rule of law is an integral part of sustainable development. This is particularly true in post-conflict situations, where the need for justice is greatest, but the structures for its delivery may have collapsed or lost their legitimacy. The crucial importance of the rule of law was recognized in the 2005 World Summit outcome document, which emphasized the interconnections between peace and security, development and the rule of law as well as the respect for human rights. It could be said that the principle of the rule of law is a cross-cutting theme throughout the entire outcome document.

3. Finland welcomes the report of the Secretary-General on "Uniting our strengths: enhancing United Nations support for the rule of law". The grouping of the rule of law activities of the United Nations in the report into three "baskets" is a helpful point of departure, but should not be regarded as a definition of the rule of law in the sense of limiting our work in this field.

4. The establishment of the Rule of Law Coordination and Resource Group, with a small Secretariat Unit to act as a focal point for coordinating system-wide rule of law activities, is also a much welcomed and long-awaited step. Finland, together with other interested States, has consistently underlined and highlighted the need for coordinating and streamlining all rule of law activities of the United Nations as well as called for the creation of such a coordination mechanism in order to enable the United Nations to better cope with increasing demands for the strengthening of justice and the rule of law. The role of the Unit should also include the facilitation of technical assistance, the development of common policies and comprehensive strategies and the strengthening of cooperation with other organizations and donors active in this field. Within United Nations missions, cooperation between all units critical to the rule of law also needs to be secured, inter alia, with a view to an early start of the process of rebuilding the domestic justice system. It is also crucial for the long-term sustainability of the rule of law efforts at the national level.

Rule of law at the international level

5. Finland attaches utmost importance to strengthening the international criminal justice system. The International Criminal Court as well as the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone have an important role in upholding the international rule of law by combating impunity for the most serious crimes of concern to the international community as a whole.

6. Finland stresses the importance of the universal ratification of the Rome statute of the International Criminal Court and its implementation, as well as effective cooperation with the Court. Finland has ratified the Agreement on Privileges and Immunities of the International Criminal Court, adopted legislation providing for full cooperation with the Court and is currently revising its Penal Code to conform to the crimes of the Rome statute. During the Finnish Presidency of the European Union in the second half of 2006, Finland took crucial steps to implement the European Union Action Plan on the International Criminal Court. Finland is currently negotiating an agreement on the enforcement of sentences with the International Criminal Court and has also supported financially the Victims Trust Fund and various projects of the Court.

7. Finland emphasizes the need for supporting the effective functioning of the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone and the successful accomplishment of their activities in accordance with the relevant completion strategies. To this effect, Finland has been in close cooperation with the courts and provided voluntary financial assistance.

8. During its European Union Presidency, Finland organized an international seminar on the action against impunity in the external relations of the European Union and, together with Germany, Jordan and other partners, is organizing an international conference on peace and justice to be held in Nuremberg, Germany, in June 2007. Furthermore, Finland is actively engaged in the Justice Rapid Response, an international cooperative mechanism for the supply of voluntary assistance at the request of a post-conflict State or an international institution for the identification, collection and preservation of evidence relating to the crimes of the Rome statute.

9. With regard to the peaceful settlement of disputes, attention should be drawn to the critical role of the International Court of Justice as the principal judicial organ of the Organization. In this regard, Finland recalls the recommendation in the Summit outcome document that States that have not yet done so consider accepting the jurisdiction of the Court in accordance with its Statute. Finland has accepted the compulsory jurisdiction of the Court pursuant to article 36 (2) of the Statute. Furthermore, Finland wishes to draw attention to the need to provide the Court with adequate financial and personal resources. As pointed out by the President of the International Court of Justice, Judge Rosalyn Higgins, in her statement to the General Assembly on 26 October 2006, there is an urgent need to provide each member of the Court with a law clerk.

10. Finland would also like to stress the importance of developing the rule of law at the international level through the codification and progressive development of international law. A key role is played by the International Law Commission and the Sixth Committee of the United Nations. The Bureau and the Secretariat are

encouraged to continue to explore ways to reinforce the interaction and the connection between the Commission and the Sixth Committee. Furthermore, Finland stresses the need to ensure the accountability of the United Nations staff and experts on mission with respect to criminal acts committed in peacekeeping operations, in particular ensuring an end to impunity for sexual violations. Particular attention also has to be paid to promoting the ratification and full implementation of core international treaties.

11. During the Finnish Presidency of the European Union, Finland consistently underlined the need for promoting compliance with and giving visibility to international humanitarian law as well as increasing the sensitivity of the European Union experts and policymakers to its violations. A priority of the Finnish Presidency was the effective implementation of the newly adopted (2005) European Union Guidelines on International Humanitarian Law. For example, a seminar was organized on 4 July 2006 by the European Union Council secretariat jointly with the International Committee of the Red Cross on the theme "International humanitarian law and the fight against terrorism".

12. Targeted sanctions raise questions concerning the guarantees of due process and the rule of law. The 2005 World Summit called upon the Security Council, with the support of the Secretary-General, to ensure that fair and clear procedures exist for placing individuals and entities on sanctions lists and for removing them, as well as for granting humanitarian exemptions. Transparent, fair and effective procedures for listing and de-listing constitute an essential part of a legitimate sanctions regime. During its European Union Presidency, Finland underlined the need to develop the sanctions regimes so as to make them more transparent and fair. In Helsinki, on 27 and 28 September 2006, the Finnish Presidency organized a European Union/United States of America workshop on financial sanctions to combat terrorism, in which representatives from the States members of the European Union, the United States, Switzerland and Norway participated. The workshop focused on the topic of "Transparency and fairness in listing and de-listing" and offered a good opportunity for sharing experiences and exploring ways to develop the financial sanctions mechanism. Finland welcomes the adoption by the Security Council of its resolutions 1730 (2006) and 1735 (2006) as well as the recommendations adopted by the Informal Working Group of the Security Council on General Issues of Sanctions[1] and calls upon the Council to continue its work in this regard.

13. Furthermore, Finland is committed to working together with other Member States on the reform of the United Nations system of administration of justice. It is high time the internal justice mechanisms of the United Nations were upgraded to correspond to international standards of due process.

Rule of law at the national level

14. The principle of legality, the balanced separation of powers, the respect for international law, including human rights, as well as access to justice for all are at the core of the rule of law at the national level. Absence of the rule of law — whether manifested in impunity or lawlessness — undermines public confidence, obstructs development, facilitates organized crime and terrorism and leads to a return to conflict.

[1] See S/2006/997.

15. The United Nations is well placed to assist States in enhancing and strengthening their national rule of law capacity. Assistance is particularly called for in conflict and post-conflict situations. The report of the Secretary-General of August 2004 on "The rule of law and transitional justice in conflict and post-conflict societies"[2] was an important contribution to this discussion, raising awareness of the challenges of transitional justice.

16. Finland supports the development of the justice sector in its partner countries bilaterally and as a part of multilateral donors, such as the European Union. Strengthening of the rule of law is one of the priority areas in European Union civilian crisis management. Within the context of the United Nations, Finland provides funding to the initiative to develop the Rule of Law Index, tasked to better targeting of the United Nations rule of law operations and providing mechanisms for assessing the rule of law situation, needs and development around the world.

17. The work done on the justice and security sector reform and the whole-of-government approach to fragile States has given us important information and tools also as regards the strengthening of the rule of law capacities. Capacity development towards the strengthening of the rule of law requires strong commitment and political will on the part of the partner country. As noted in the Secretary-General's report of 2004, dialogue and participation of civil society in the justice sector reforms are vital to the success of the process.

18. Finland also welcomes the practical tools that have been developed within the United Nations system, such as the "Rule of Law Tools for Post-Conflict States" developed by the Office of the United Nations High Commissioner for Human Rights as well as the "Handbook on Law Enforcement Responses to Violence against Women" and the "Criminal Justice Assessment Toolkit", both developed by the United Nations Office on Drugs and Crime.

Future work of the Sixth Committee

19. Finland supported the initiative by Liechtenstein and Mexico to include a new item on the agenda of the General Assembly on "The rule of law at the national and international levels". As to the future topics to be discussed under the item, Finland refers to the comments submitted by Germany on behalf of the European Union. Finland supports the suggestion to annually choose one or two meaningful and manageable sub-topics to which the Sixth Committee could devote particular attention. However, when choosing a topic, care should be taken to avoid duplicating discussions in other forums. Finland believes that a suitable topic for discussion during the sixty-third session of the General Assembly would be "Strengthening criminal justice at the national and international levels".

[2] S/2004/616.

France

[Original: French]

1. France's deep and abiding commitment to the notion of the rule of law naturally causes it to follow with particular attention developments in this field within the United Nations. Although the Secretary-General and various States have already made a significant contribution in this area, it would be useful to recall briefly the general definition of the terms of the exercise in order to better determine its scope and possible objectives.

2. The topic of the rule of law in the United Nations raises issues that, in France's view, have evident interest and considerable practical importance. It is undeniable that the strengthening of the rule of law in its various aspects, such as respect for norms for the protection of human rights, "good governance" or the administration of justice with respect for internationally recognized guarantees, is both a condition for the prevention of conflict and a key element in peacemaking and peacebuilding. France is also convinced that at the international level, international stability must be anchored in the Charter of the United Nations and in international law and that it must also be guaranteed by the broadest possible participation of States in multilateral legal instruments (particularly in the field of human rights and international humanitarian law).

3. France therefore fully supports the reaffirmation in General Assembly resolution 61/39 that universal adherence to and implementation of the rule of law at both the national and international levels and an international order based on the rule of law and international law are "essential" for peaceful coexistence and cooperation among States.[1] As the members of the European Union reaffirmed during the debate that took place in November 2006 in the Sixth Committee, the 2005 World Summit Outcome recognized "the nexus between peace and security, development and the rule of law, and especially respect for human rights".[2]

4. Given the great diversity of issues addressed under the rubric of "the rule of law" in various organs of the United Nations, it would certainly be useful to examine more closely the notion of "rule of law". France is of the opinion, however, that given the complex theoretical concepts to which this notion has given rise[3] and which have been affirmed in various ways in the different legal systems, it would be best to adopt a pragmatic and practical approach to the question. Such an approach would have the advantage of avoiding abstract discussions about the meaning of "rule of law" and not giving the impression of wanting to apply preconceived models to the activities of the United Nations and its Member States.

5. However, any useful and structured consideration of the subject of the rule of law in the Sixth Committee requires the identification of the precise issues that

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[1] Third preambular paragraph.

[2] A/C.6/61/SR.6, para. 86.

[3] Sometimes rendered by the expression "primacy (or pre-eminence) of the law" or as "legality" in official documents of the United Nations (see verbatim records of the meetings of the Security Council referred to below). It is also well known that translations of the term in other languages (rule of law, *Rechtsstaat*) can raise numerous academic questions. Lastly, the very way in which "rule of law" is written, with or without capitals, could also give rise to discussion. In accordance with the official documents of the Organization, France uses here the form "rule of law".

would result in concrete initiatives that enjoy the broadest agreement. Moreover, because of the cross-cutting nature of the "rule of law" in United Nations activities, care must be taken not to lose sight of the respective competencies of the organs established by the Charter. In particular, the discussion in the Sixth Committee should not duplicate the work being done in other United Nations bodies.

6. France is therefore of the view that the Sixth Committee should choose only one or two sub-topics of the item on the rule of law at the national and international levels. As the General Assembly has recommended in its resolution 61/39, the regular inclusion of the item on "the rule of law" in its agenda could usefully take the form of the consideration each year of a specific sub-topic identified in a resolution. France fully supports this proposal.

7. With a view to the promotion of the rule of law, both the practical necessities revealed by the practice and work already done by the Secretary-General indicate that the subject of the administration of justice and capacity-building in States in this field, especially in peacemaking, would require careful consideration in the Sixth Committee. In this regard, consideration should be given to the support that the Organization might give for rebuilding the justice system of a State, the resources available to it for this purpose and cooperation with other organizations, funds and programmes. Technical assistance from the United Nations for the adoption and implementation of treaties and international law in post-conflict situations would also be an issue for consideration that could yield concrete and tangible results.

8. Consideration of this topic could also extend into the future, for example, by exploring ways of strengthening the international criminal justice system, by identifying activities that could help the dissemination of international law and universal participation in major multilateral treaties, or by examining the contribution made by the various peaceful means of settlement of international disputes provided for in the United Nations Charter.

9. The evocation of new topics related to the rule of law should not, however, obscure the important role already being played by the Sixth Committee and the International Law Commission in the codification and progressive development of international law. This work is critical to the strengthening of international law and to the stability of international legal relations. In France's view, increased exchanges between the Commission and the Sixth Committee or Member States, including through regular informal interactive debates, as the European Union has proposed,[4] should be pursued.

Germany

[Original: English]

A. Comments by Germany in its national capacity

1. Germany reaffirms that the rule of law is among the core principles on which it builds its international relations and its efforts to promote peace, security and prosperity worldwide. As the 2005 World Summit stated, commitment to the

[4] See A/C.6/61/SR.6, para. 87.

purposes and principles of the United Nations Charter and international law, and to an international order based on the rule of law and international law, are essential for peaceful cooperation and coexistence. In a globalizing world, the rule of law at the national and international levels is ever more a necessary condition for the interaction of States and their societies and an essential condition for peace and stability. Germany therefore welcomes the fact that the General Assembly has included the item "The rule of law at the national and international levels" in its agenda.

1. Rule of law at the national level — elements for a definition

2. Whereas there seems to be no single definition of the rule of law (*état de droit*, *Rechtsstaat*) that could claim to be valid for all legal systems and traditions, it appears to be commonly accepted that, at the national level, the "rule of law" refers to a constitutional system in which the exercise of all public authority is subject to the law. In Germany, the concept of *Rechtsstaat* is a general constitutional principle. The German Federal Constitutional Court interprets this fundamental principle by tying together different and diverse constitutional rules in order to give coherence to the constitutional and legislative framework. *Rechtsstaat* refers to a principle of governance whereby all persons, institutions and entities — including the State and its organs themselves — are bound by the law and accountable to laws that are publicly promulgated, equally enforced and adjudicated by an independent judiciary. It includes guarantees of equality before the law of all those who are subject to the jurisdiction of the State; of effective protection of the rights of the individual; of adherence to the supremacy of the law, fairness, equality and the prohibition of arbitrariness in the application of laws; of the separation of powers, including the independence of the judiciary; of legal certainty and the prohibition of retroactive application of laws; of transparency of proceedings.

2. Key features of the rule of law at the international level

3. As to the rule of law at the international level, it may be recalled that one of the founding purposes of the United Nations was "to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained". Respecting and strengthening the rule of law is central to the work of the United Nations and has become a cross-cutting issue in almost every field. Certain differences in legal thinking notwithstanding, there seems to be a common understanding that an international order which is based on the rule of law comprises the recognition that international law — the body of applicable rules that are binding on States, international organizations and other subjects of international law — is the foundation of modern-day international relations. In Germany's view the following elements can offer a basis for future work of the General Assembly on this issue. In our view, the notion of rule of law in international relations implies, inter alia, respect for the sovereign equality of all States and for self-determination of peoples, in accordance with the purposes and principles of the United Nations Charter. It implies the principle

- That States must act in good faith and settle any disputes about the interpretation or application of the law peacefully and must refrain from the threat or use of force in any manner inconsistent with the Charter

- That States have a duty to fulfil their obligations under international law, including through effective implementation at the national level.

To be a lasting condition for peace and security, it necessitates an effective multilateral system so as to prevent or sanction violations of international law; it requires full respect for and effective protection of human rights and fundamental freedoms as a fundamental responsibility of each State; and it entails the obligation of international organizations to act — internally and in their relations vis-à-vis Member States and the international community — in accordance with, and showing full respect for, international law.

4. Germany stands ready to discuss this non-exhaustive list of key features of the rule of law within the General Assembly and to work with all interested States on developing concrete action within the United Nations in order to give effect to the principles of the rule of law outlined above.

B. Comments by Germany in its capacity as Presidency of the European Union

1. The European Union welcomes the new agenda item "The rule of law at the national and international levels"

5. The European Union has supported the inclusion of the new item "rule of law at the national and international levels" on the agenda of the General Assembly and its assignment to the Sixth Committee from the beginning. The European Union also welcomed the idea to choose annually one or two suitable sub-topics for discussion. The rule of law is, as the Secretary-General has quite rightly underlined, a cross-cutting issue for the work of the United Nations in almost every field. For any debate in the confines of the Sixth Committee to be useful in carrying the concept forward, the item has to be broken down into sub-items which are meaningful and manageable. The concept agreed upon in Assembly resolution 61/39 was to find issues which are suitable to be discussed within a limited time and where an Assembly debate may provide useful input for the work of Member States and the United Nations. The topics to be taken up by the Sixth Committee should be announced well in advance so as to allow Member States and the Secretariat proper preparation. Because of the sheer dimension of the agenda item, the European Union had also early on underlined that when choosing a topic the Assembly should avoid the duplication of discussions which are already under way elsewhere. The non-paper which the Bureau of the Sixth Committee had circulated last autumn already contained a number of issues that could be taken up in the future. One of the issues which the European Union continues to find particularly interesting and suitable is the question of strengthening criminal justice at the national and international levels.

2. The European Union supports the Rule of Law Resource and Coordination Group

6. As to the question of enhancing United Nations support for the rule of law, the European Union welcomes last year's report of the Secretary-General, entitled "Uniting our strengths: enhancing United Nations support for the rule of law", which highlighted the centrality of the rule of law for the work of the United Nations and announced the decision to establish a Rule of Law Resource and Coordination Group — to be chaired by the Deputy Secretary-General and supported by a small Secretariat Unit — which shall act as a focal point for the

coordination of system-wide rule of law activities. Establishing the Group and putting in place the Unit is an important step to implement the World Summit Outcome in this field. The European Union hopes that the Unit will soon become fully operational and calls upon the Secretary-General and Member States to provide all necessary assistance and support to the Unit to ensure that it can fulfil its important functions.

3. Other European Union activities to strengthen the rule of law

7. Promoting the rule of law is an inherent primary objective of the European Union laid down in article 11 to the European Union Treaty. The objectives of the European Union shall be, inter alia, "to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms". In recent years, the European Union has adopted several external actions under its Common Foreign and Security Policy (CFSP) in order to meet the above-mentioned objectives.

8. Furthermore, the European Union participates actively in civil and other crisis management operations (inter alia, through the adoption of joint actions).

9. Within the framework of the European Security and Defence Policy (ESDP), two missions focusing on the rule of law can be mentioned. Following an invitation from the Iraqi Transitional Government, the European Union Council decided on 21 February 2005 to launch an integrated rule-of-law mission for Iraq, "EUJUST LEX". Furthermore, on 16 July 2004, the European Union launched the first rule of law mission to Georgia (EUJUST THEMIS). The operation achieved its main aims and successfully completed its tasks on 14 July 2005.

10. The European Union has also contributed substantially to the process of establishing the institutions necessary for the rule of law in a number of other countries.

11. The European Commission also contributes greatly through funding and projects to the international promotion of the rule of law.

12. Another important activity of the European Union in promoting the rule of law internationally is its efforts towards the universalization of multilateral conventions, undertaken (primarily) within the framework of the United Nations. This aim is, for example, spelled out in both the European security strategy adopted by the European Council on 12 December 2003 and in the European Union strategy on non-proliferation of weapons of mass destruction of 2003.

13. In order to promote the rule of law in certain areas of law, the European Union also adopts guidelines, such as the Guidelines on promoting compliance with international humanitarian law (IHL), adopted by the Council on 12 and 13 December 2005.[1]

14. The promotion of international criminal justice is another core objective in this context. The European Union supports this process strongly, aiming, inter alia, at increasing the number of ratifications of, and accessions to, the Rome Statute of the International Criminal Court (see Council Common Position 2003/444/CFSP on the International Criminal Court).

[1] *Official Journal of the European Union*, C 327/4, 23 December 2005.

15. Moreover, Germany wishes to inform the Secretary-General that at the European Union level the Council Working Group on Public International Law (COJUR) is also dealing with issues relating to the rule of law.

Kuwait

[Original: Arabic]

1. The resolution stresses the need for all to abide by the rule of law at the national and international levels and the commitment to the purposes and principles of the Charter of the United Nations and international law, in order that we may be able to live in a more peaceful, prosperous and just world and realize economic growth, sustainable development, the eradication of poverty and hunger and the protection of all human rights.

2. In this regard, it may be mentioned that the State of Kuwait has a solid legal system that is characterized by its dominion over all and preserves the freedoms and rights of all. Kuwait is intent on applying the law and on living up to its international commitments.

3. To return to the resolution under discussion, we find that it emphasizes, among other things, the fact that it is the duty of all States to refrain from the use or threat of use of force in any manner contrary to the purposes and principles of the United Nations and to settle any disputes that might arise by peaceful means.

Lebanon

[Original: Arabic]

1. The issue of the rule of law at the national level and at the international level is addressed by Lebanese legislation. At the national level, the law is coercive in nature in the sense that it is mandatory and entails a universal obligation. To ensure that, the law has a punitive aspect and has three functions: a proactive function, a real-time function and a deterrent function. The latter applies to all by virtue of the public and absolute nature of the law. At the same time, there are certain rare exceptions which do not detract from the necessity or effectiveness of the punitive character of the law.

2. The relationship between the rule of national law and the rule of international law is governed by the Code of Civil Procedure which, in article 2, paragraph 1, provides that "the courts shall be bound by the principle of the hierarchy of rules". International law comprises the United Nations rules and resolutions, on the one hand, and the international conventions which rank second in terms of their mandatory nature after the Lebanese Constitution, on the other.

3. In the first place, article 2, paragraph 2, of the Code of Civil Procedure provides that "where the provisions of international treaties conflict with the provisions of ordinary law, the former shall take precedence over the latter in the field of application". This reflects the desire of the Lebanese legislature to ensure that international treaties — which form part of international law — rank second in the hierarchy of rules after the Lebanese Constitution since such treaties and their

provisions have to be in conformity in order for them to be ratified by the National Assembly.

4. As for the second part of international law, which consists of the Charter and resolutions of the United Nations, paragraph (b) of the preamble to the Lebanese Constitution confirms the adherence of the Lebanese State to the covenants of the United Nations and to the Universal Declaration of Human Rights in providing that "... Lebanon ... is a founding and active Member of the United Nations and abides by the covenants and by the Universal Declaration of Human Rights ...".

5. Consequently, the issue of the rule of international law and its relation with the question of the rule of national law is regulated by the Lebanese Constitution in the manner indicated above.

6. With respect to the second question, one of the main issues is that of the international criminal tribunals and the hybrid tribunals and their impact, as well as their compulsory nature with respect to judicial systems, including the question of the International Tribunal on the assassination of Prime Minister Rafiq Hariri.

Libyan Arab Jamahiriya

[Original: Arabic]

1. Considering that the General Assembly reaffirms its commitment to the purposes of the Charter of the United Nations and the principles of international law, with a view to the establishment of a more peaceful world, and reaffirms also that human rights, the rule of law and democracy are interlinked and mutually reinforcing values and that they are part of the values and universal principles of the United Nations.

2. And whereas the application of democracy is a form of exercise of power agreed on by all (the people), with a view to the laying-down of the law, its implementation and its application by judges, with what we may agree to call, both technically and in terms of content, "the power of the people", and it is this that guarantees the establishment of the law by all, its application to all and the affording of protection to all, resulting in the establishment of the protection of human rights.

3. With regard to the rule of law at the national level, it is our view that one should build on the experience of Member States in this area, including, for example, the experience of the Libyan Jamahiriya in applying democracy through Basic People's Congresses (the legislative power) and People's Committees (the executive power), for that is the principle that guarantees that the branches lead back to the source, authority being wielded by the source, that is, the people.

4. With regard to the rule of law at the international level, let us point out that the call should be for the practice of democracy within the framework of the United Nations Organization at every level, including the Security Council, considering that the application of the rule of law at the international level begins with the reform and democratization of the United Nations organs so as to make them consistent with the call for the application of the rule of international law at the international level.

Liechtenstein

[Original: English]

1. Liechtenstein has already expressed its views on matters pertaining to the rule of law in the request for inclusion of the respective agenda item, submitted jointly by Mexico and Liechtenstein,[1] as well as in the statement given in the debate of the Sixth Committee during the sixtieth session of the General Assembly. These documents underline the importance that Liechtenstein attaches to the rule of law and contain conceptual considerations regarding the rule of law, which need not be repeated here. Liechtenstein is greatly encouraged by the positive response this initiative has received in the Assembly and by subsequent developments in the Secretariat, as reflected in particular in the report "Uniting our strengths: enhancing United Nations support for the rule of law". These activities respond to the mandate of the 2005 World Summit Outcome, in which the Heads of State and Government recognized "the need for universal adherence to and implementation of the rule of law at both the national and international levels" (para. 134) and requested action aimed at strengthening the rule of law.

2. The above-mentioned report of the Secretary-General represents an important step forward in the work of the United Nations on the rule of law. Liechtenstein welcomes the balanced approach chosen in the report, as reflected by the grouping of rule of law activities in three baskets: rule of law at the international level; rule of law in the context of conflict and post-conflict situations; rule of law in the context of long-term development. Activities aimed at strengthening the rule of law are clearly not within the purview of a single United Nations department, but are undertaken by a multitude of actors within the United Nations system. Liechtenstein agrees that these activities must be better coordinated and applauds the establishment of the Rule of Law Coordination and Resource Group, chaired by the Deputy Secretary-General.

3. In addition to improved coordination, however, rule-of-law related activities must also receive more adequate financial and human resources. This is particularly relevant with respect to activities in the first basket, rule of law at the international level. Activities aimed at promoting international law in general, such as technical assistance related to the implementation of international conventions and other sources of international law into the national legal order appear to be rather limited. Many States lack the capacity to respond in a timely and comprehensive manner to the progressive development of international law, or to use mechanisms established under international law, such as in the area of conflict resolution. Liechtenstein is thus of the view that activities in the first basket, rule of law at the international level, need to be particularly strengthened, whereas activities in the other two baskets do already benefit from the strong field presence of the Department of Peacekeeping Operations, the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Programme, and thus need to be mainly better coordinated, and strengthened, where appropriate.

4. Liechtenstein supports the decision to annually choose a sub-topic on which the debate on the rule of law can be focused in the Sixth Committee. In light of the above and, in particular, given the fact that the Secretary-General will provide an inventory of rule of law activities as well as a report identifying ways and means for

[1] A/61/142.

strengthening and coordinating the activities listed in the inventory, the issue of technical assistance and capacity-building could be a useful sub-topic for a future debate.

Mexico

[Original: Spanish]

Introduction

1. The relevance of the rule of law was explicitly recognized in the 2005 World Summit outcome document, in which the Heads of State and Government stressed "the need for universal adherence to and implementation of the rule of law at both the national and international levels".[1]

2. The United Nations Charter, for its part, refers in its preamble to the need "to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained".

3. Despite the importance attached to this issue in the Charter and the more recent recognition of its relevance, some degree of confusion persists as to the meaning of the term "rule of law" and the criteria for its implementation at the national and international levels. These are the issues that will be addressed below and are considered useful in setting guidelines for the future work of the Sixth Committee, in accordance with the provisions of General Assembly resolution 61/39.

Concept of the "rule of law"

4. The concept of the "rule of law" is very broad and covers the entire process of creating and observing laws. It involves subjects of law, processes for the creation of norms, administrative institutions and institutions for the administration of justice, as well as application of the law and penalties for violations.

5. As Mexico stated during the sixty-first session of the General Assembly, the "rule of law" means the norm or set of norms that regulates the activities of both the governing and the governed; it is a virtue that can and should be present in any legal system.

6. Mexico is of the view that in order to achieve this objective, three primary elements are needed: a general attitude of deference to the norm; an independent judicial authority to determine the applicable law; and a clear demarcation between the powers of the various authorities responsible for law and order.

7. Generally speaking, this deference is expressed by an absence of the arbitrary exercise of power and by compliance with the norms established by all subjects, including the authorities.

Rule of law at the internal level

8. At the internal level, there should be a hierarchically arranged legal structure that is coherent and reflects the needs and the actual conditions of the State. In addition to this structure, norms should have specific characteristics that make them

[1] General Assembly resolution 60/1, para. 134.

easier to observe. Thus, they should meet the formal drafting requirements and should be clear, public, non-retroactive, coherent and stable.

9. Within these parameters, establishment of the rule of law has, in turn, two parts that are indivisible and complementary: the formal and the substantive. On the one hand, the formal drafting requirements should be clearly defined and regulated and the language used in the resulting norms should be clear and simple in order to make them easier to understand, and therefore to observe. On the other hand, the content of norms should be appropriate to a specific social and political context that is consistent and compatible with the actual conditions of the State in which they will be applied.

10. Lastly, in order to create the rule of law, it is essential to respect the principle of legal certainty that makes it possible to establish a solid, secure legal basis. The promulgation and dissemination of norms will promote their public recognition and this, in turn, will help the governing and the governed to learn the limits of the normative framework applicable to them and the consequences of violating it.

11. It is important to note that ensuring the effective application of and respect for the law at the national level involves implementing international norms by incorporating them into the framework of domestic law.

Rule of law at the international level

12. The elements involved in the creation of the rule of law at the national level are also applicable to that process at the international level. However, it should be borne in mind that the structure of the international system is different from national systems on one essential point — the absence of a legislative branch — and therefore the need to take decisions by consensus. This basic difference takes us back to the roots of international law when we consider the rule of law from that perspective; while the rule of law implies submission to the law, in the case of States, it implies the surrender of their sovereignty.

13. International law is based on the sovereign equality of States — *par in parem non habet imperium*. However, a reference to the rule of law implies that, a fortiori, a set of norms that imposes limits on States' actions is needed.

14. The decentralized structure of the international system means that the exercise of a State's sovereignty is limited by the need to respect the sovereignty of other members of the international system. The practical means through which the exercise of State sovereignty is reconciled with States' compliance with international norms is respect for commitments made voluntarily (*pacta sunt servanda*).

15. The principle contained in article 27 of the Vienna Convention on the Law of Treaties complements this by establishing that "a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty". This rule reflects the spirit of the normative superiority of international (in this case, contractual) norms over internal norms.

16. Nevertheless, there are limits to States' exercise of the will to create conventional norms. There is a regime that establishes the hierarchical superiority of international norms and is reflected in two provisions that should be considered:

(a) Article 53 of the Vienna Convention on the Law of Treaties, which establishes that norms arising from a coincidence of wills and contained in treaties

are void if they conflict with a peremptory norm of general international law (or *jus cogens* norm);[2]

(b) Article 103 of the Charter of the United Nations, which establishes the normative value of the Charter and states that "in the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail".[3]

17. In Mexico's opinion, on the basis of these arguments, the study of the establishment of the rule of law at the international level should take as its point of departure the principles established in the United Nations Charter.

International norms and strengthening of the rule of law

18. It will also be particularly important to analyse two elements that are related to the observance of international norms and contribute to the establishment and strengthening of the rule of law at the national and international levels: application of international treaties at the internal level and strengthening of the rule of law by the international courts.

19. As Mexico stated during the sixty-first session of the General Assembly, the failure of States parties to an international treaty to take the national legislative and administrative measures necessary to effective compliance with international norms at the internal level is one of the principal obstacles to enforcement of the treaty.

20. It must be recognized that the rule of law cannot be strengthened merely by creating international norms; an effective, efficient system for monitoring the application of these norms and identifying instances of States' failure to apply them is also needed. In other words, there is a need for courts with the competence and jurisdiction to determine the correct application of norms and to identify any instances of non-compliance by a subject of international law and the appropriate penalties for violation. This means that the role of the international courts should be strengthened by encouraging the exercise of their jurisdiction in the peaceful settlement of disputes between States.

21. Mexico considers that it is of the utmost importance to reaffirm the role of the International Court of Justice, as the principal judicial organ of the United Nations, in the peaceful settlement of disputes. Furthermore, it is clear that the progressive development of international law and the changing nature of the issues involved have made it necessary to create additional specialized judicial organs.

22. Mexico would like to reiterate that in its opinion, the rule of law would be strengthened by referring disputes between States to the various courts and, even more importantly, by complying with their judgements. For that purpose, it is important to promote acceptance of the compulsory jurisdiction of the International

[2] It is important to remember that article 53 also establishes that "a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character".

[3] It should be borne in mind that the hierarchical superiority of the United Nations Charter over other conventional instruments has also been recognized by the International Court of Justice in its verdict in the *Case Concerning Military and Paramilitary Activities in and against Nicaragua* (1984).

Court of Justice and of the inclusion of provisions for the peaceful settlement of disputes in international treaties which refer any disputes that may arise from their application or interpretation to the Court, or to another international court.

Suggestions

23. In order to contribute to the adoption of measures that promote the rule of law, Mexico submits the following suggestions to the General Assembly for its consideration:

- Identify the treaties that most urgently require the development of administrative and legislative measures for their full implementation
- Promote the development of legislative guides, model laws or model provisions that will facilitate the drafting of implementing legislation
- Promote the training of government officials, legislators and judges involved in the implementation of those treaties
- Consider ways and means of promoting recognition of the compulsory jurisdiction of the International Court of Justice
- Empower the Secretary-General of the United Nations to request the International Court of Justice to give advisory opinions on issues related to his functions, in accordance with the United Nations Charter.

Netherlands

[Original: English]

1. General remarks

1. The Netherlands believes that a strong, effective international legal order is an essential prerequisite for a more equitable peaceful and prosperous world. The Netherlands is therefore deeply committed to upholding and promoting an international order based on the rule of law, including human rights law. International law and the rule of law are at the core of the Netherlands foreign policy; the Netherlands therefore welcomes the fact that the General Assembly has included the item "The rule of law at the national and international levels" in its agenda.

2. The Netherlands recognizes that on the international level a consensus or a "base line" definition of what is the rule of law does not exist. The Netherlands feels that it would be useful to come to an understanding at the international level about a definition of the rule of law. To that end, the Netherlands hosted a rule of law expert meeting on 20 April 2007, during which an academic inventory on the rule of law, written by The Hague Institute for the Internationalization of Law, was presented. The Netherlands would like to add this inventory to this document,[1] as an illustration of what could be a way to reach an acceptable consensus on the definition of the rule of law (without restraining the efforts that the States Members of the United Nations make in this respect).

[1] This academic inventory may be obtained from the Permanent Mission of the Kingdom of the Netherlands to the United Nations.

2. Rule of law at the international level

3. Part of the notion of the rule of law at the international level is certainly the principle that States shall settle their disputes by peaceful means, as recognized in Article 2, paragraph 3, and in more detail in Chapter VI, of the Charter of the United Nations. One of the means of pacific settlement of disputes is to bring disputes before the International Court of Justice. However, in contrast to national courts, the International Court of Justice does not have compulsory jurisdiction. It is competent to make rulings only in disputes between States that have recognized its jurisdiction, either in general or with respect to a specific treaty or dispute. There is much room for improvement when it comes to acceptance of the Court's jurisdiction. Only a third of the States Members of the United Nations have recognized its compulsory jurisdiction and a number of these entered substantial reservations in doing so. This situation has remained unchanged over the last few decades. At present only one of the five permanent members of the Security Council, all of which permanently have a national seat on the Court, have accepted its compulsory jurisdiction. In addition, experience has shown that States are not always "good losers". Several have withdrawn recognition of the Court's jurisdiction after losing a case.

4. The Netherlands is in favour of a broader recognition of the jurisdiction of the International Court of Justice. By doing so, States can demonstrate that they take seriously the promotion of the international legal order and the international rule of law. This means that States must also accept that they may lose cases before the Court. However, there are two reasons why this should be acceptable.

5. First, States may also win cases before the Court. Secondly, strengthening the jurisdiction of the Court will strengthen the international legal order and the international rule of law.

6. Alongside existing mechanisms for settling disputes between States, the Netherlands feels that the establishment of the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone and, especially, the International Criminal Court as a permanent legal institution, has contributed substantially to the strengthening of the international rule of law by removing impunity for individuals accused of committing the most serious crimes.

7. The Netherlands supports the work of these judicial institutions in every possible way.

8. The Netherlands is making a special contribution in this respect by hosting the International Criminal Court, the International Tribunal for the Former Yugoslavia as well as the trial against former President Charles Taylor by the Special Court for Sierra Leone.

3. Rule of law at the national level

9. At the national level, the Netherlands is committed to assisting States in their efforts to strengthen their legal, judicial and law enforcement institutions.

Rule of law and development

10. As regards the rule of law and development, the Netherlands believes that sustainable poverty reduction can only be achieved through balanced economic,

social and ecological development based on the Millennium Development Goals. Good governance is vital if we are to reach these goals by the target year of 2015. Managing natural resources and funds so that they contribute to equitable and sustainable development depends partly on the ability to build, protect and strengthen the rule of law. A State governed by the rule of law is one in which no one is above the law. This means, among other things, that the State is bound by the law in its dealings with its citizens and that everyone is equal before the law. The Netherlands development policy is geared towards strengthening the rule of law in this respect. Weak government tends to result in institutions which lack the capacity to support the rule of law. The underlying causes for this are many and varied and can be country-specific or generic. The social forces that determine how well the rule of law functions are also highly diverse, making it a multi-various area in which to work.

11. The biggest part of the Netherlands budget on strengthening the rule of law in our partner countries is spent on increasing access to justice, institutional strengthening of the legal system and the strengthening of courts. In numerous projects, the largest amount of the Dutch efforts is spent on training and education of the Government and civil society.

Post-conflict situations

12. In addition to regular cooperation with developing countries, the Netherlands also helps within a framework of security sector reform to strengthen the rule of law in countries in post-conflict situations. The Netherlands believes that only an accountable, effective and efficient security system operating under civilian control within a democratic context and respecting human rights can be a force for peace and stability. In these cases, priority is given to, among other things, the restoration of public order, legal institutions and processes within the context of what is conflict. This sometimes takes the form of participation in European Union civil crisis management missions.

4. Role of the United Nations/future work of the Sixth Committee

13. The Netherlands would like to align itself with the comments submitted by Germany on behalf of the European Union. A few specific points could be highlighted.

14. The Netherlands supported the inclusion of the item "The rule of law" on the agenda of the Sixth Committee. In that context, the Netherlands looks forward to receiving the Secretary-General's rule of law inventory and to discussing it in the context of the General Assembly's work on the rule of law. As to the future topics to be discussed under this agenda item, the Netherlands would like to point out that it considers "strengthening criminal justice at the national and international levels" a suitable topic for discussion during the sixty-third session of the Assembly.

15. The Netherlands foresees a coordinating role for the United Nations in exchanging ideas and best practices among the States Members of the United Nations and ensuring that programmes and efforts are better coordinated and made more effective. In that regard, it welcomes the establishment of the Rule of Law Unit as a positive development and calls upon the Secretary-General to provide all necessary assistance and support to the Unit.

Qatar

[Original: Arabic]

1. The relevant authority reported that the majority of national constitutions, including that of the State of Qatar, referred to "the principle of the rule of law" and that this was evident in the invocation by the State of Qatar, in its Constitution, of the following principles:

(a) Acceptance of the principle of the separation of powers;

(b) Adherence by the authorities to the provisions of the Constitution, their respect for its principles and their avoidance of breaching it in laws promulgated, actions taken or decisions issued;

(c) Subjection of the State to the law, meaning that the executive authority is bound by the law in all the actions that it takes and measures that it pursues;

(d) Adoption of the principle of the gradation of legal standards, meaning the compliance of the lowest legal standard with the highest standard;

(e) Guarantee of the principle of equality among individuals and protection of individual rights and freedoms.

2. Therefore, the source of the rule of law at the national level in the State of Qatar is the permanent national Constitution, which has sought to establish "the rule of law".

3. With regard to the rule of law at the international level, the Constitution of the State of Qatar contains the most important basic precepts of international law, namely:

(a) Affirmation of the principle of maintaining international peace and security;

(b) Affirmation of the principle of refraining from the use of armed force or the threat thereof in international relations;

(c) Implementation in good faith of international treaties;

(d) Guarantee of the rights of citizens, including foreigners resident in the State of Qatar, and affirmation of the responsibility of the State in environmental protection.

4. Pursuant to the first operative paragraph of the said resolution, with regard to the topics relevant to the questions addressed in the aforementioned instrument, and with the objective of strengthening the rule of international law, we propose that States should incorporate the basic principles of international law in their national constitutions. In this regard, we recognize that little is added to the commitments and duties imposed by international law upon States, and to their responsibility in cases where those laws are violated, for their constitutions to provide for the relationship between international and constitutional law or to specify a number of international legal precepts at the core of their constitutions. However, doing so contributes to demonstrating good faith in respect of international instruments and covenants and commitment to their implementation, and offers assurance to the legislative and judicial authorities in monitoring the actions of the executive authority, in order to strengthen global peace and security.

Sweden

[Original: English]

Introduction and general remarks

1. The rule of law is paramount for Sweden, at the national level as well as in international relations. The rule of law is not only a value in itself, but also a precondition for peace, prosperity and sustainable development. This view has consistently permeated Swedish policy, national and international, bilateral and multilateral, in all areas, including development, trade, national and international security and human rights.

2. For Sweden, the international rule of law means that international law constitutes the foundation of international relations, that sovereign equality and the right of self-determination are respected, that States abide by their obligations under treaty law and general international law in good faith, that disputes are settled peacefully, that States have recourse to effective remedies before international institutions, that international organizations and other institutions monitor the implementation of obligations and take effective action, if necessary, that international obligations are fully implemented at the national level, including through effective legal mechanisms, and that the rule of law and human rights prevail nationally.

3. Sweden warmly welcomed the unequivocal commitment to the rule of law expressed in the outcome document of the 2005 World Summit and it wholeheartedly supported the inclusion of the item "The rule of law at the national and international levels" on the agenda of the General Assembly. There is an added value in reviewing the state of the world through this perspective. The debates should focus both on the current situation, including problems, and on concrete ways of moving forward.

Future work of the Sixth Committee

4. Germany has submitted observations on behalf of the European Union. Sweden fully aligns itself with those observations and would like to add the following comments.

5. For the sixty-second session, the interim report on an inventory of current activities[1] would be a suitable matter for discussion, as would the Secretary-General's report, "Uniting our strengths", and the implementation thereof. The outcome of that debate might be followed up during the sixty-third session.

6. The question of strengthening criminal justice at the national and international levels, as proposed by Germany, is topical and Sweden fully supports the proposal to focus on this issue at the sixty-third session.

7. Another subject, which could be discussed at a later stage, is "international dispute settlement mechanisms as means of ensuring the rule of law and strengthening the maintenance of international peace and security". This discussion could cover both political and practical problems that constitute obstacles to the full use of such mechanisms.

[1] See General Assembly resolution 61/39, para. 2.

Current activities to strengthen the rule of law

8. The German contribution succinctly relates European Union activities in the field. Sweden has been a very active contributor to the European Union's policy on international law-related issues, such as the Guidelines on the promotion of international humanitarian law, support for the International Criminal Court and the universalization of multilateral conventions. Besides participating in European Security and Defence Policy missions related to the rule of law, Sweden has also been very active in the development of civilian crisis management capacity in the European Union, in the creation of civilian response teams and in the promotion of gender justice initiatives.

9. In addition, it must be mentioned that much of the foreign policy of the Union contributes directly to the international rule of law. In its relations with third States, the European Union consistently emphasizes the importance of respect for human rights, including non-discrimination, and human rights clauses are regularly included in agreements between the European Union and third States. Furthermore, in extreme cases, the European Union has imposed sanctions on third States that have seriously violated their human rights or other obligations. Much of the European Union's development cooperation contributes to respect for human rights and the rule of law at the national level.

10. Multilateral institutions have a crucial role in the establishment and maintenance of the rule of law, at the national and the international level. This is true for regional organizations, such as the Organization for Security and Cooperation in Europe and the Council of Europe, in both of which Sweden is an active member, as well as the United Nations. Strengthened cooperation between the United Nations and regional organizations, which is now almost routine in peace missions, should be gradually extended.

11. It is important to bear in mind that many of the general activities of the United Nations contribute to the rule of law. That includes activities of many of the funds and programmes, such as the Office of the United Nations High Commissioner for Refugees, the Office of the United Nations High Commissioner for Human Rights and the Office for the Coordination of Humanitarian Affairs. But it also includes the political organs, namely the General Assembly and the Security Council. The role of the Assembly is obvious when it comes to treaty-making and standard-setting, but its action in other areas, including in concrete situations and conflicts, can also contribute to the international rule of law, in particular if the debates and decisions are based on assessments of the law. Furthermore, the Council has contributed in a very concrete manner to the rule of law by creating institutions such as the international war crimes tribunals and the monitoring and reporting mechanism on the use of child soldiers.[2] In addition, in its dealings with concrete situations, the Council can contribute much to the rule of law. It is important that deliberations are based on sound assessments of international law. Sweden commends Austria for its initiative, "The role of the Security Council in strengthening a rules-based international system", and welcomed the Council debate on international law last year under the Danish Presidency. Together with Switzerland and Germany, Sweden has been a driving force behind efforts to strengthen the rule of law in targeted

[2] See Security Council resolution 1612 (2005).

sanctions. Sweden's 2006 action plan to implement Council resolution 1325 (2000) on women, peace and security incorporates a rule of law perspective.

12. Sweden welcomed the Secretary-General's decision to create a Rule of Law Coordination and Resource Group. Its mandate should be wide, and the Group and the supporting Unit should be established taking into account the strong emphasis put on the rule of law in the outcome document of the 2005 World Summit. As one concrete aspect of the rule of law activities of the United Nations, Sweden has supported the creation of a Rule of Law Index (ROLIX). With regard to the rule of law activities of the United Nations, possibly to be discussed at the sixty-second session of the General Assembly, Sweden supports the approach of stocktaking, streamlining and strengthening.

13. Sweden is also an active contributor to the rule of law outside the scope of international organizations. Sweden is a party to major conventions and as a general rule it accepts dispute settlement clauses, including the compulsory jurisdiction of the International Court of Justice under article 36 (2) of its Statute. Sweden has been a strong and active supporter of the International Criminal Court. Sweden has always been a big contributor to peace missions, in the United Nations and other contexts. Sweden has increasingly emphasized the need for a strong civilian and rule of law element focus of such missions. In both the field of peace and security and the field of development cooperation, security sector reform is an important concern. Swedish development cooperation is focused on fighting poverty. Poverty reduction is to an extent depending on well-functioning rule-of-law systems. Sweden therefore supports human rights and rule-of-law related projects and activities. These include the drafting of laws and the training of judges, lawyers and prosecutors, support for monitoring mechanisms and ombudsmanships, as well as support to civil society organizations and for civic education and poor people's access to legal advisory services. In security- and development-related contexts, it is the strong conviction of Sweden that international support should be based on the balance and interaction between diplomacy, development and security and human rights.

United States of America

[Original: English]

1. The United States of America welcomes the opportunity to provide its views on the rule of law at the national and international levels. As we stated during the Sixth Committee debate on this topic in November 2006, the United States is a strong advocate for the rule of law at both the national and international levels. We are pleased that the General Assembly has included this topic on its agenda during both the sixty-first and sixty-second sessions and we look forward to cooperating with other Member States during the Assembly's further work on this important topic.

2. At the international level, Secretary of State Rice has noted that one of the pillars of our diplomacy is our strong belief that international law is a vital and powerful force in the search for freedom. As part of our commitment to international law, the United States has worked actively to expand our dialogue with other countries on international law issues. As the Security Council correctly observed in June 2006, "international law plays a critical role in fostering stability and order in

international relations and in providing a framework for cooperation among States in addressing common challenges".

3. At the national level, the commitment of the United States to advancing the rule of law is demonstrated by the extensive resources we devote to assisting States in their efforts to strengthen their legal, judicial and law enforcement institutions. These programmes, along with parallel efforts undertaken by the United Nations and by other States, make significant contributions to advancing the rule of law. We welcome this opportunity to highlight some of our work in this area.

4. Through the Agency for International Development, the United States is currently investing over $301 million in more than 50 countries to promote broad-based justice system and court reform. These programmes have assisted countries in Latin America and the Caribbean in their efforts to implement criminal justice reforms and human rights protection. We are also working with countries in Central America seeking to improve commercial dispute resolution — a major factor in attracting foreign and domestic investment. In Eastern Europe, the United States has supported programmes to promote judicial reform, train judges and lawyers, modernize legal education, create bar associations and improve access to justice since 1989. We have also assisted numerous efforts to establish peacebuilding, court administration and access to justice programmes in areas such as Timor-Leste, the West Bank and the Gaza Strip.

5. The United States also works to assist countries in their efforts to strengthen criminal justice sector institutions. Through the Department of State's International Narcotics and Law Enforcement programme alone, the United States invested over $350 million last year in such efforts. Among the objectives of these efforts are to help States establish stable, fair and efficient criminal justice systems and to combat the production and trafficking of illicit drugs, which represent significant challenges to the establishment of the rule of law in many countries. In each case, the programmes are designed with the host Government to advance their reform agendas or to respond to specific problems. For example, in Afghanistan, we are contributing to efforts to train and build the capacities of judges, prosecutors and defence counsel, as well as to reintegrate women into the legal sector and expand opportunities for legal education. In the Russian Federation, we have promoted the reform of the codes of criminal procedure, including the introduction of jury trials and an independent bar association. In Mexico, we provided technical assistance and training to the Ministry of Justice in establishing a modern, professional federal investigative service equipped to combat transnational organized crime and other serious criminal threats. In Bosnia, we are helping to build integrated national-level civilian law enforcement agencies where only entity-level agencies existed before. In Guatemala, we worked with a city facing a serious problem with youth gangs to establish a model community-policing programme.

6. As the General Assembly's Sixth Committee considers how best to develop its further work relating to the rule of law, we believe it would be particularly useful for the Assembly and the Sixth Committee to focus on ways in which rule of law assistance programmes could be better coordinated and made more effective. We note in this regard that General Assembly resolution 61/39 "requests the Secretary-General to prepare an inventory of the current activities of the various organs, bodies, offices, departments, funds and programmes within the United Nations system devoted to the promotion of the rule of law at the national and international

levels for submission at its sixty-third session and to submit an interim report thereon to the General Assembly for its consideration at its sixty-second session". We look forward to receiving these reports and to discussing them in the context of the Assembly's further work on the rule of law.